

November 6, 2007



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**TRANSCRIPT  
November 6, 2007**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Councilmember Marilyn Praisner, President	Councilmember Michael Knapp, Vice President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	

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1 Council President Praisner,

2 Good morning, ladies and gentlemen. Would you please rise for a moment of silence?

3 [Moment of silence observed] Thank you. And as we begin to assemble this morning,  
4 may we wish our friend and colleague, George Leventhal, speedy recovery. I don't know  
5 whether he's watching; but, George, this is for you. [Laughter] I was watching a special  
6 on Carol Burnett last night, so it was terrific. [Laughter] So this is for you, George. We  
7 hope to see you soon; but you need to take care of yourself. That's got to be your  
8 number one priority. Your friends on the Council are looking forward to seeing you, but  
9 want you to get on the mend. And if there's anything we can do for you or your family,  
10 please let us all know. There is a great energy in the room for George. Leventhal right  
11 now. General business, Madame Clerk.

12  
13 Linda Lauer,

14 There are no agendas to announce today, but we did receive three petitions. The first  
15 one was supporting Approved Facility Plan in North Four Corners Local Park; another  
16 supporting renovation and expansion of North Four Corners Local Park; and the third  
17 supporting an addition for Sherwood High School Elementary School -- I'm sorry,  
18 Elementary School.

19  
20 Council President Praisner,  
21 Sherwood Elementary School.

22  
23 Linda Lauer,  
24 Yes, right.

25  
26 Council President Praisner,  
27 Okay. The petitions have been announced. The Agenda and Calendar Changes have  
28 been made. Madame Clerk, are there minutes?

29  
30 Council Clerk,  
31 Yes, the minutes of October 23, 2007.

32  
33 Council President Praisner,  
34 Is there a motion?

35  
36 Council Vice President Knapp,  
37 So moved.

38  
39 Councilmember Floreen,  
40 Second.

41  
42 Council President Praisner,  
43 Vice President Knapp, seconded by Councilmember Floreen. There are no lights. All in  
44 favor of approval of the minutes of October 23rd, please indicate. [Show of hands] That  
45 is unanimous among those present. We move to the Consent Calendar. Is there a  
46 motion?

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1 Council Vice President Knapp,  
2 So moved.

3  
4 Councilmember Floreen,  
5 Second.

6  
7 Council President Praisner,  
8 Vice President Knapp; second by Councilmember Floreen. I see no lights. All in favor of  
9 approving the Consent Calendar, please indicate. [Show of hands] That is unanimous  
10 among those present. We will now move to District Council Session. We need the  
11 Hearing Examiner and Mr. Zyontz. Is Ms. Carrier coming or not? Well, let's begin with  
12 some conversation; and, Linda, if you can get her please, just in case there are  
13 questions. The recommendations before us include a recommendation from the Hearing  
14 Examiner to remand this Request for Rezoning. The Applicant and several community  
15 organizations and individuals have requested oral argument on the issue. And  
16 Councilmember Berliner, your light is on?

17  
18 Councilmember Berliner,  
19 Yes, ma'am. I just have a question –

20  
21 Council President Praisner,  
22 Put your mic on.

23  
24 Councilmember Berliner,  
25 -- clarification – request for clarification. I was under the impression that there was a  
26 very narrow matter before us, which was solely the question of oral argument.

27  
28 Council President Praisner,  
29 Yes.

30  
31 Councilmember Berliner,  
32 Not the Hearing Examiner's report – not its request for remand.

33  
34 Council President Praisner,  
35 No. That that file, if you will, is not before us -- but a very narrow issue as to whether or  
36 not we would grant oral argument. Am I correct with respect to that?

37  
38 Jeff Zyontz,  
39 That is correct. But if you grant oral argument, you will also need to approve the scope  
40 of that oral argument.

41  
42 Council President Praisner,  
43 And the oral argument that we've been requested is a piece of what we will discuss.  
44 The oral argument request from the Applicant is a discussion of why they believe  
45 remand is not correct, and they would like us not to remand. So that's the discussion of  
46 the content of the oral argument – is associated to some extent by the Applicant on the

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1 issue of why remand is not an appropriate decision that they would like the Council to  
2 make. The opponents -- on the other side are also proponents of an oral argument.  
3 They would like to discuss, it sounds to me from the letters, a variety of issues including  
4 the content or rationale for the Hearing Examiner's remand -- including some other  
5 items. And it's up to the Council to decide whether they want to have -- the discussion of  
6 the remand include rationale that might relate to some of those other issues.

7  
8 Jeff Zyontz,  
9 At least to allow oral argument --

10  
11 Council President Praisner,  
12 On that.

13  
14 Jeff Zyontz,  
15 -- on other topics.

16  
17 Council President Praisner,  
18 Right.

19  
20 Jeff Zyontz,  
21 The Council, of course, is always free --

22  
23 Council President Praisner,  
24 Right. But my point is, whether the oral argument on the issue of remand should include  
25 more than just the rationale that the Hearing Examiner used -- which is related to traffic.  
26 And there are other issues that were raised by some of the community members who  
27 also requested oral argument. Councilmember Floreen.

28  
29 Councilmember Floreen,  
30 Thank you, Madame President. Well, I move to grant oral argument on this. I would ask  
31 that oral argument be focused on the transportation issues that the Hearing Examiner  
32 has raised. This is one of our worst intersections -- maybe second, depending on how  
33 you count it -- in the County. And it's a very significant issue, I think, how the Council  
34 proceeds on zoning cases that would be affected by the intersection of Randolph and  
35 Georgia Avenue. I don't have any specific words other than to say, "oral argument on  
36 the issues raised by the Hearing Examiner for remand." I guess that's how I would put it,  
37 Madame President.

38  
39 Council President Praisner,  
40 Is there a second?

41  
42 Council Vice President Knapp,  
43 I'll second.

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1 Council President Praisner,

2 All right. It's been moved and seconded that the Council grant oral argument on the  
3 remand issue related to the congestion traffic rationale that the Hearing Examiner  
4 referenced in the rationale for remand. Lights -- Councilmember Berliner.

5  
6 Councilmember Berliner,

7 In the past, I have found that oral argument would have been helpful to me in a number  
8 of these matters. In fact, we've had decisions made by us in these situations in which  
9 after the fact people came and said, "Well, my goodness, why didn't you consider this,  
10 this and this?" And I said, "No one asked for oral argument. We were bound by the  
11 hearing record that was before us; and no one identified things that should have been  
12 brought to our attention." So I generally am a proponent for oral argument and would  
13 vote in favor of allowing oral argument, given the number of requests that we had with  
14 respect to it. My only question goes to the scope. And I was wondering if staff would  
15 opine with respect to whether staff has a view with respect to the proper scope of oral  
16 argument.

17  
18 Jeff Zyontz,

19 Well, certainly the issue of whether to agree or disagree with the recommendations of  
20 the Hearing Examiner was asked for everything; and that was the motion made. You  
21 had individuals that requested oral argument also on air pollution, compatibility with the  
22 existing community, density, forestation, pedestrian and vehicular safety, retail height  
23 location and content, and the Transit Sector Plan itself. That would be a very broad  
24 scope that is beyond the issues the Hearing Examiner herself thought unresolved.

25  
26 Francoise Carrier,

27 There are -- I think Mr. Zyontz has identified the full range of issues that were raised. In  
28 terms of the issues that the Council is going to be considering in making an ultimate  
29 decision -- remand, approval, denial -- you know, you have a range of options. One  
30 issue that I think some community members may wish to be heard on more than others  
31 is the compatibility question. That was an issue that was raised by almost everyone, if  
32 not everyone who participated in the hearing. So if you're going to consider anything in  
33 addition to the transportation issues that were the focus of my remand recommendation,  
34 the compatibility might be one area that you might consider allowing people to address  
35 in oral argument.

36  
37 Councilmember Berliner,

38 And my question, "Is compatibility something within the scope of that which we would be  
39 deciding?" In other words, in the past what we have found ourselves is bound by the  
40 hearing record. And is this part of the hearing record and, therefore, would be  
41 something that we could entertain?

42  
43 Francoise Carrier,

44 Yeah, absolutely. Very much so. Compatibility is one of the central decisions the  
45 Council has to make.

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1 Councilmember Berliner,  
2 Okay.

3  
4 Francoise Carrier,  
5 And it was discussed at length during the hearing. It's in the discussion certainly in my  
6 report. People sometimes appreciate the chance to be able to say their own piece.

7  
8 Councilmember Berliner,  
9 Yes.

10  
11 Francoise Carrier,  
12 It is up to the Council whether you feel that your deliberations will be aided by having  
13 oral argument on anything other than the transportation issues that formed the basis for  
14 my recommendation.

15  
16 Council President Praisner,  
17 My interpretation of the transportation issues would be that it incorporates pedestrian  
18 and vehicular movement and safety, and that is one of the other individual items. But I  
19 think transportation relates to those issues, if the maker of the motion accepts that.

20  
21 Councilmember Floreen,  
22 Sure.

23  
24 Councilmember Berliner,  
25 Madame President, I –

26  
27 Council President Praisner,  
28 Councilmember Berliner, you still have the floor.

29  
30 Councilmember Berliner,  
31 Yeah. I guess I'd like to hear from staff with respect to whether you have a view as to  
32 the compatibility issue as to whether it would be proper to add that to the scope of that  
33 which – I believe the motion at this point does not include compatibility. So I'm curious  
34 as to whether staff has a view with respect to whether or not we'd be well served by  
35 adding that.

36  
37 Jeff Zyontz,  
38 That is a matter of the Council's discretion on whether you think you will be aided by  
39 that discussion. It was an issue that's pretty well documented in the 189-page report  
40 that you have on this.

41  
42 Councilmember Berliner,  
43 Okay. Well insofar as at least this member did not read the report. Insofar as the narrow  
44 issue before us was oral argument as opposed to the merits of the case. At this juncture  
45 I would say given the nature of the dispute, and what I understand to be that this being

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1 a principal focus of the dispute, that I would entertain amending the motion as offered to  
2 include this matter.

3  
4 Council President Praisner,

5 Okay. All right. You want to treat it as an amendment? I first wanted to find out whether  
6 the maker of the motion's views on that issue. Nancy.

7  
8 Councilmember Floreen,

9 Thank you. Well, my point would say that the conversation we're inviting is only on the  
10 remand issue with respect to transportation. We haven't even gotten to the main case,  
11 which is – I think there might be warranted another oral argument having to do with  
12 other issues that the community wishes to have oral argument on. The first question is,  
13 "Does it even get to us for that exchange?" So I don't disagree that those are points to  
14 be looked at. But we're not asking anyone to argue their case based on the record  
15 before us at this point. We're just asking them to address the issue of the transportation  
16 element that's associated for whether remand is appropriate. Procedurally at least, if it's  
17 remanded for further conversation on the transportation issue, it would come back to us  
18 – at which point people would naturally raise those kinds of questions – at which point, I  
19 believe, this Council might well be inclined to have oral argument on the other stuff.

20  
21 Council President Praisner,

22 Okay.

23  
24 Councilmember Floreen,

25 So that's where -- I don't disagree with you –

26  
27 Council President Praisner,

28 But you don't want to – right.

29  
30 Councilmember Floreen,

31 -- but I'm just saying if you have oral argument on the compatibility issue at this point,  
32 it's a little premature, I think, because we still haven't even focused on the transportation  
33 elements. That's my view. I mean we can do it, but I think it's a timeliness issue.

34  
35 Council President Praisner,

36 No I understand; but it would seem to me that's a question of sequence –

37  
38 Councilmember Floreen,

39 Yeah.

40  
41 Council President Praisner,

42 -- and the Council's approach to this issue. If the issue is exclusively on remand, then  
43 the question then is whether the Council after hearing the public hearing would decide it  
44 wanted to remand or not. If not, I assume the community would ask for oral argument  
45 on the case – but not necessarily because that's not in front of us.



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1 Jeff Zyontz,  
2 This is your opportunity –

3  
4 Council President Praisner,  
5 Right – exactly.

6  
7 Jeff Zyontz,  
8 -- to have oral argument on any topic you wish. When it comes before the Council on  
9 oral argument, at that date -- and you have a substantive discussion on it -- you have  
10 choices to do absolutely anything.

11  
12 Council President Praisner,  
13 Right.

14  
15 Jeff Zyontz,  
16 You can agree with the Hearing Examiner for the facts that the Hearing Examiner said.  
17 You can expand the remand for other topics that you thought were not well-considered  
18 or deserved more evidence. You could approve the zoning case within the record. You  
19 can deny the zoning case for within the record. So once it comes back to you, you have  
20 all options.

21  
22 Councilmember Berliner,  
23 But, Madame President, if the sponsor of the motion is not willing to accept it as a  
24 friendly, I would move to amend it.

25  
26 Councilmember Floreen,  
27 It's fine. But I just think it's a little premature to get into the substance before we even  
28 resolve this remand issue on the need for further exploration of the transportation  
29 issues. Fine. I mean it's not worth a big fight, but I don't think it helps –

30  
31 Council President Praisner,  
32 Okay. I'm interpreting the maker of the motion as accepting traffic –

33  
34 Councilmember Floreen,  
35 Sensitive.

36  
37 Councilmember Berliner,  
38 With great glee.

39  
40 Council President Praisner,  
41 The issues before us are then the motion to remand, which would schedule public  
42 hearing on the remand -- including the traffic, pedestrian, and vehicular safety issues –  
43 traffic issues – and also the compatibility with the existing community. And since this is  
44 a relatively lengthy document with multiple requests, I'm going to suggest thirty minutes  
45 a side given the multiple individuals and the complexities that we're talking about.  
46 Usually it's twenty, but I think this one is going to justify and warrant thirty minutes. And

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1 staff will work with Linda Lauer on the scheduling of that to allow sufficient time for us to  
2 both have the argument, the discussion, and decision. All in favor of the motion before  
3 us? [Show of hands] Phil and Roger? Unanimous. Okay. That is action on both G-863  
4 and G-862. I wanted to make sure folks understood they are, in essence, a combined  
5 project. All right. We'll move to Legislative Session. There is no Legislative Journal. We  
6 are introducing one bill: Expedited Bill 27-07, Personnel – Retirement – Investment  
7 Authority, sponsored by the Council President at the request of the County Executive.  
8 Public hearing is scheduled for November 27th -- I believe it's "07," not "04" -- at 1:30  
9 p.m. I just noted on the agenda that it said "04." Okay. And with that, that is introduced.  
10 And we will begin the discussion on the Growth Policy. We're out of Legislative Session  
11 while we discuss the Growth Policy. Then we'll go back into Legislative Session for the  
12 Impact Taxes piece. I am going to invite Dr. Hanson and staff to join us at the table, and  
13 also Mr. Faden and Mr. Orlin. Is Glenn here? Mike, is Glenn here?

14  
15 Council Vice President Knapp,  
16 He is here.

17  
18 Council President Praisner,  
19 All right. Well, we need to begin. We're going to begin where we left off last week. And I  
20 will turn it over to staff to tell us -- the order of items is listed. Now, there was an  
21 addendum that I've been told is available.

22  
23 Michael Faden,  
24 Yes.

25  
26 Council President Praisner,  
27 But I don't have it, and I want to make sure all councilmembers have it. So -- Mr.  
28 Faden?

29  
30 Michael Faden,  
31 Okay. Yes, you should have, I believe, four packets. You have the Item (6) packet,  
32 which is the Growth Policy per se.

33  
34 Council President Praisner,  
35 Check and make sure you all have everything.

36  
37 Michael Faden,  
38 And it should say, "corrected."

39  
40 Council Vice President Knapp,  
41 Hold on -- from the top.

42  
43 Council President Praisner,  
44 Okay. Wait one second. Let's from the top make sure everybody has what they need.

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1 Michael Faden,  
2 Okay. You're supposed to have "Item (6) Corrected." A medium-sized packet went out  
3 on Friday.

4  
5 Council Vice President Knapp,  
6 Medium-sized.

7  
8 Councilmember Trachtenberg,  
9 This is slim.

10  
11 Council Vice President Knapp,  
12 There are 42 pages.

13  
14 Michael Faden,  
15 It depends on one's point of view. There is an addendum to that which – I'm sorry. Then  
16 you should have the PAMR charts corrected – which also went out on Friday.

17  
18 Council Vice President Knapp,  
19 All right. So there's an addendum, a No. (6) addendum –

20  
21 Michael Faden,  
22 And then there's an addendum to No. (6) which went out last night, which is essentially  
23 about the pipeline. It's a two-page table of items on the pipeline.

24  
25 Council President Praisner,  
26 Can I have all councilmembers' attention so we make sure everybody has everything?

27  
28 Michael Faden,  
29 Okay.

30  
31 Council President Praisner,  
32 I don't want to get in a situation where somebody says, "I don't have this." So make sure  
33 –

34  
35 Councilmember Floreen,  
36 It's a mystery.

37  
38 Council President Praisner,  
39 Well, I don't think it's a mystery, but it can be a little challenging. Okay. You love a good  
40 mystery? I just want to make sure.

41  
42 Michael Faden,  
43 So those are the three packets for Item (6), the Growth Policy per se. You should have  
44 one packet for Items (7) through (9) – the revenue items – which went out on Friday.  
45 You also may have – you probably received this morning at your offices a new memo  
46 from the County Executive dated today.

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1 Councilmember Berliner,  
2 I don't have that one.

3  
4 Michael Faden,  
5 Okay.

6  
7 Council President Praisner,  
8 Could we get copies of that?

9  
10 Michael Faden,  
11 We will get that around. So those are all the official items.

12  
13 Council President Praisner,  
14 Okay. All right. We're going to go over this one last time – make sure everybody has the  
15 same thing. Agenda Item No. (6) Addendum, "November 6th Glenn Orlin Addendum,  
16 2007-9 Growth Policy Effective Date for New Tests."

17  
18 Council Vice President Knapp,  
19 Okay.

20  
21 Council President Praisner,  
22 That's the most recent packet item.

23  
24 Michael Faden,  
25 Right.

26  
27 Council President Praisner,  
28 Then there is Agenda Item No. (6), "November 6th Corrected Worksession 2007-2009  
29 Growth Policy Corrected." Okay?

30  
31 Michael Faden,  
32 Right.

33  
34 Council President Praisner,  
35 Then we have Agenda Items (7) to (9), "November 6th Worksession" – on the bills and  
36 the Resolution on the Impact Tax. Correct?

37  
38 Michael Faden,  
39 Yes.

40  
41 Council President Praisner,  
42 All right. That's three.

43  
44 Michael Faden,  
45 Then you have the –  
46

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1 Council President Praisner,  
2 Then we have a memo on the PAMR charts from Mr. Orlin, dated November 4th,  
3 corrected as well.

4  
5 Michael Faden,  
6 Yes. That's the color charts memo.

7  
8 Council President Praisner,  
9 The color charts.

10  
11 Michael Faden,  
12 And those are all of our –

13  
14 Council President Praisner,  
15 Those are all the packets. And then we also received a letter from the County  
16 Executive.

17  
18 Michael Faden,  
19 All right – which essentially did not –

20  
21 Council President Praisner,  
22 And a memo from Councilmember Berliner which councilmembers may have received.

23  
24 Michael Faden,  
25 Right.

26  
27 Council President Praisner,  
28 Equal time for Councilmember and County Executive. Okay? Does everybody have  
29 everything before we begin?

30  
31 Council Vice President Knapp,  
32 We have the paper.

33  
34 Council President Praisner,  
35 Okay. Well, I just want to make sure that everybody has the paper. That's a good start.  
36 All right. Mr. Orlin, the packet No. (6) Corrected – is the order in which we will review  
37 these items – or at least this is the proposal -- I had asked Mr. Orlin to lay that out. We  
38 need to go back to the Policy Area Transportation Review – well let's finish the Local  
39 Area Transportation Review, which is what we did first. And let's deal with that first so  
40 we finish all of LATR.

41  
42 Council Vice President Knapp,  
43 I thought part of that was waiting to see what we did with the Policy –

44  
45 Council President Praisner,  
46 Oh, okay. Is that the rationale for why it's in that order?

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1 Council Vice President Knapp,  
2 That was the idea.

3  
4 Council President Praisner,  
5 Okay. That's right. Councilmember Knapp had asked before we look at the more  
6 aggressive variables in the policy areas, you wanted to look at what we do on policy  
7 areas –

8  
9 Council Vice President Knapp,  
10 Right. Just wanted to see how the pieces work together – or don't.

11  
12 Council President Praisner,  
13 Okay. All right. Then Policy Area Review – the Growth Policy Resolution. The first item  
14 is the "Type of Policy Area Transportation Review" -- the PAMR Test -- as proposed by  
15 the Planning Board as a Policy Area Transportation Review Process. There were  
16 several revisions which the Committee discussed and recommended. I believe we did  
17 already talk about the four years for Transportation Test, but that was the first change.  
18 The second is the issue of the PAMR tests creating a stair-step process so that if a  
19 policy area has a relative transit mobility less than 65% and relative arterial mobility less  
20 than 55%, it would fall in the "Acceptable with Full Mitigation" realm. And for policy  
21 areas that fall in the "Partial Mitigation" realm, the degree of partial mitigation was  
22 modified by the Committee to be between 10 and 90%, depending upon how close the  
23 policy area is to the stair step. As colleagues have on page 2 of the packet, the  
24 alternatives before the Committee include Councilmember Floreen's position (which is  
25 not to institute the PAMR test), and Councilmember Berliner's position (which is a  
26 modification of the proposals from the Committee, altering the stair step in the PAMR  
27 process and still using the four years but modifying the definitions of the requirements  
28 for full and partial mitigation). And then the discussion that staff recommended, which is  
29 not instituting the PAMR test but adding a requirement that "Development generating 30  
30 or more peak hour trips must reduce trips equal to the proportions noted in the attached  
31 table that's on page 3." And that was the Council staff recommendation which the  
32 Committee did not support. Councilmember Berliner.

33  
34 Councilmember Berliner,  
35 Madame President, at the appropriate time –

36  
37 Council President Praisner,  
38 Mic.

39  
40 Councilmember Berliner,  
41 You would think almost a year later, I'd remember how to do this.

42  
43 Council President Praisner,  
44 That's okay.

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1 Councilmember Berliner,  
2 At the appropriate time, I will formally move my modified PAMR for the Council's  
3 consideration and –

4  
5 Council President Praisner,  
6 Now is the time.

7  
8 Councilmember Berliner,  
9 -- if this is the appropriate time, then I would ask that that be the item under  
10 consideration at this point in time and briefly share with my colleagues. My  
11 understanding, I believe, is that the Board is comfortable with this alternative at this  
12 juncture. Is that a fair characterization, Mr. Chairman?

13  
14 Royce Hanson,  
15 The Board believes that this is a defensible position and that we can accept it, yes.

16  
17 Council President Praisner,  
18 Thanks.

19  
20 Councilmember Berliner,  
21 I appreciate that incredible amount of praise with respect to this effort. "Defensible" and  
22 "acceptable" weren't exactly the adjectives I was looking for, but I will take them. It's  
23 better than Councilmember Floreen's reaction to my previous amendment. But I would  
24 say –

25  
26 Council President Praisner,  
27 You got a pass. Don't worry about it.

28  
29 Councilmember Berliner,  
30 We take what we can get.

31  
32 Royce Hanson,  
33 It looks workable.

34  
35 Councilmember Berliner,  
36 "It looks workable"; that's a good thing. Let me share with my colleagues how we came  
37 to this point because, with the greatest respect to the Chairman – I did not -- and I know  
38 a number of my colleagues had some hiccups when we got PAMR from the Planning  
39 Board. And those hiccups really – under the tutelage of my colleague, Councilmember  
40 Elrich -- revealed what I perceive to be the most questionable aspect of PAMR's  
41 proposed – which is the "transit access" if you will and the weight given to the transit  
42 access. Even those of us who are in favor of smart growth – we want to have a strong  
43 transit component – but this particular transit piece and what it measured struck, I know  
44 Councilmember Elrich and I, as just not being real clear that this is what we want to  
45 measure. So the combination of what we were measuring and the weight we were  
46 giving it in my judgment meant that many areas that I believe require mitigation were

1 not, in fact, included. So in working with the Board, we basically took the approach that  
2 we would give a 60% weighting to road capacity and the experience of our community  
3 on the roads, and a 40% weighting to the transit component. And that change – that  
4 modest change of moving from a basically 50/50 to 60/40 – had the effect of moving this  
5 line that you see in terms of the chart in a way that actually creates a standard that  
6 many of us were seeking. And I know, Councilmember Floreen, you were among those  
7 in saying, “How do we describe what we’re doing here? What is it that we’re saying is  
8 our standard?” And it just turns out – and it was not my intention – it turns out this  
9 creates a standard. It creates a standard because now we are basically saying that 40%  
10 of free flow movement is our bottom line. That if we’re doing less than 40% of free flow,  
11 we need to mitigate. We need to take this seriously. And that means that even some of  
12 our Metro Policy Areas are now falling within that mitigation area. And I, again, as a  
13 smart growth proponent, have no trouble with respect to that because I believe we are  
14 asking many of our Metro Policy Areas and the communities that surround them to  
15 absorb a lot of density. And at the same time that we’re asking them to absorb a lot of  
16 density, I think it is fair and appropriate for us to say to the development community,  
17 “When you are developing in a Metro Policy Area, you have to do your share with  
18 respect to the traffic that is created.” And they’re the people, quite frankly, that have the  
19 greatest opportunity to do their share because we can actually achieve trip reductions in  
20 Metro Policy Areas far easier than we can in other areas of the County. So the fact that  
21 this line now brings into play for mitigation almost all of our Metro Policy Areas for a  
22 modest amount of mitigation, I think is a good thing – not a bad thing. So I think we now  
23 have, under this modified version, a standard that we can defend; more mitigation than  
24 we were achieving otherwise; but mitigation at acceptable levels because this proposal  
25 adopts the Planning Board’s view that we should cap our mitigation for this moment in  
26 time at 50%. And so those are levels that I know the Chairman has indicated he  
27 believes is the most aggressive we can be in this moment. And I’m willing to accept the  
28 Planning Board’s judgment with respect to that. So we have a standard; we have more  
29 mitigation; and yet we have mitigation that’s reasonable. And we have, in the  
30 Chairman’s words, a “defensible and acceptable” proposal.

31  
32 Royce Hanson,  
33 That’s not unimportant.

34  
35 Councilmember Berliner,  
36 I appreciate that. So on that basis, Madame President, I would seek my colleagues’  
37 support with respect to this proposal. I understand that there are those who argue that  
38 we shouldn’t move forward at this moment in time, and perhaps wait longer. There have  
39 been many of us that have been struggling with this for almost a year now. And the  
40 notion that we would wait another six months to a year to do something in the future, I  
41 just don’t find to be tenable. I think that this is a step in the right direction. I think we can  
42 improve it over time; no one’s saying this is perfect. But is it significantly better than  
43 what we have today? Absolutely, because we have nothing today in the context of  
44 Policy Area Review; and there are many of us who campaigned on a pledge to have a  
45 very good Policy Area Review. This moves us forward. It isn’t perfect; we can play with  
46 it over time and should play with it over time. But it does move us in the right direction. It



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1 does ensure that there is more mitigation occurring where we need the mitigation, and  
2 that our driving community in particular will feel like we are being responsive to their  
3 needs, at the same time honoring that we want to push people into transit. So with that,  
4 I've said probably more than I should say; and I will step down for a moment.

5  
6 Council President Praisner,  
7 Okay. The motion has been made by Councilmember Berliner and seconded by  
8 Councilmember Elrich. Councilmember Floreen.

9  
10 Councilmember Floreen,  
11 Thank you. I certainly have been looking forward to this conversation. I have some  
12 questions and then some comments – and first is of the proponent of this and the  
13 Planning Board. What is the current PAMR? What do our residents experience today?

14  
15 Royce Hanson,  
16 Basically –

17  
18 Dan Hardy,  
19 You're asking for what does the chart look like for current usage?

20  
21 Councilmember Floreen,  
22 No. Well, yeah. What is the PAMR of today?

23  
24 Royce Hanson,  
25 Current conditions – Yeah, that would be the 2005.

26  
27 Dan Hardy,  
28 Right. We have it -- in your May 21 big book, we have –

29  
30 Karl Moritz,  
31 148, I'm sorry.

32  
33 Dan Hardy,  
34 Page 148. So there is a graphic that shows the position of all the policy areas in 2005.

35  
36 Councilmember Floreen,  
37 So, we have that. Have you run that with Mr. Berliner's -- ?

38  
39 Council Vice President Knapp,  
40 What's that -- ?

41  
42 Karl Moritz,  
43 It's page 148.

44  
45 Councilmember Floreen,  
46 Merle, if you're listening, bring up page 148.

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1  
2 Council President Praisner,  
3 Okay. Why don't we just send a notice to all councilmembers' staffs to bring up the big  
4 book.

5  
6 Council Vice President Knapp,  
7 Page 148 doesn't actually have a number, right?

8  
9 Dan Hardy,  
10 Yes, it does.

11  
12 Royce Hanson,  
13 It does. It does -- well, it's 2013.

14  
15 Councilmember Floreen,  
16 Did you do it based on the 2011 numbers? Well, no, it's based on the current numbers.

17  
18 Dan Hardy,  
19 2005, right? So –

20  
21 Councilmember Floreen,  
22 What is it today? My question for you – a fundamental policy problem I have with what's  
23 before us, however we split this baby here is, "What is adequate?" There is no definition  
24 – and here we are. There is no definition in the Growth Policy –

25  
26 Royce Hanson,  
27 You are defining "adequate" by your action.

28  
29 Councilmember Floreen,  
30 I know, but what is it? Is it –

31  
32 Royce Hanson,  
33 Well, what Mr. Berliner's proposal would say is – to put it in current terms –

34  
35 Councilmember Floreen,  
36 If we could put it in language that we can understand.

37  
38 Royce Hanson,  
39 Level of Service "D."

40  
41 Councilmember Floreen,  
42 Level of Service "D" for residents –

43  
44 Royce Hanson,  
45 For roads.

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1 Councilmember Floreen,  
2 For everyone.

3  
4 Karl Moritz,  
5 For roads.

6  
7 Royce Hanson,  
8 Yes. The position -- as I understand it and as we interpret Mr. Berliner's amendment  
9 here or graph -- is that 40% of free flow represents Level of Service "D," and that you're  
10 establishing, as the County standard of adequacy, Level of Service "D" for mobility on  
11 roads.

12  
13 Dan Hardy,  
14 And I think I would add that on page Circle 5 of the packet we're working from -- this is  
15 the section of the Resolution that explains the definitions of adequacy --

16  
17 Councilmember Floreen,  
18 Yes. Yes.

19  
20 Dan Hardy,  
21 The last table on that page says, "Equivalency between transit LOS and arterial LOS."  
22 What Councilmember Berliner's proposal would do is in the right column of that, take  
23 the first two lines under the column "The Minimum Acceptable PAMR Arterial LOS  
24 Standard Is," and take those first two "E's" and make them "D's."

25  
26 Council Vice President Knapp,  
27 I'm sorry, Dan. Where are you?

28  
29 Dan Hardy,  
30 I'm on page Circle 5 of your Corrected Agenda Item No. (6) packet.

31  
32 Council Vice President Knapp,  
33 Okay. Circle 5. Okay.

34  
35 Dan Hardy,  
36 And the bottom table there says, "Equivalency between Transit LOS and Arterial LOS."

37  
38 Councilmember Berliner,  
39 Give us a moment -- trying to get there.

40  
41 Council Vice President Knapp,  
42 Ah, there we go. Okay.

43  
44 Councilmember Floreen,  
45 There's the chart.

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1 Dan Hardy,

2 And the left side of columns refer to what the Policy Area's transit level of service is. The  
3 right side says given that transit level of transit service, what is the acceptable PAMR  
4 arterial level of service? And, again, as written, the first two lines in that table say that  
5 for a Transit LOS of "A," the minimum acceptable PAMR Arterial Level of Service is "E."  
6 And similarly, for a Transit LOS of "D," the minimum acceptable PAMR Arterial Level of  
7 Service standard is "E." What Councilmember Berliner's proposal would be is to take  
8 those first two "E's" and make them "D's" so that as the Chairman has said, the  
9 minimum standard for the County would go no lower than "D."

10  
11 Councilmember Berliner,

12 And in terms that the normal public can understand, I think it is fair to describe it in  
13 terms of the 40% of free flow.

14  
15 Dan Hardy,

16 That's correct.

17  
18 Councilmember Berliner,

19 So the standard that this PAMR as proposed would adopt is that we would consider the  
20 lowest level of service without mitigation – the lowest level of speed on our roads that  
21 we would find tolerable without mitigation – is 40% of the speed that you could get –

22  
23 Royce Hanson,

24 Without full mitigation.

25  
26 Councilmember Berliner,

27 -- without full mitigation. You'd get partial mitigation above that.

28  
29 Councilmember Floreen,

30 Well, yeah. I want to know what is currently – what is -- how do you get to "yes"? How  
31 do we define a situation that doesn't require mitigation? I look through here; and it's  
32 been written to be positive, which is a nice message; but I cannot tell from reading the  
33 Resolution what is adequate. I can look at the chart, and maybe the chart is all that is  
34 going to work for anyone. But as I read the chart and the results of Mr. Berliner's  
35 proposal, what's adequate is what's in green; correct?

36  
37 Royce Hanson,

38 That's fully adequate. Basically the issue for all the charts -- if you look at page 148, we  
39 don't have any area currently that falls below a Level of Service "D" or 40% of free flow.

40  
41 Councilmember Floreen,

42 So right now the entire County, as I read your chart, with I think the possible exception  
43 of Fairland, White Oak, and Germantown East – I think – I can't quite tell – is adequate.  
44 Is that correct?

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1 Royce Hanson,  
2 That's correct. If that is your definition of adequate, that is correct.

3  
4 Councilmember Floreen,  
5 Well, I don't know – I'm just searching for what the definition is.

6  
7 Royce Hanson,  
8 The definition on these charts of adequate is that if your level of service is "D" or higher,  
9 that your level of service or your service for a policy area – your average service for a  
10 policy area – falls into the adequate range. Now, the question that you have is, "Which  
11 areas, if any, should – " notwithstanding that they are above the Level of Service "D,"  
12 which are defined as adequate – "also be responsible for some partial mitigation?"

13  
14 Councilmember Floreen,  
15 That's obviously a policy issue that folks have reached a decision on.

16  
17 Royce Hanson,  
18 That's correct.

19  
20 Councilmember Floreen,  
21 But right now, your call is that Montgomery County transportation is adequate – except  
22 for those two areas.

23  
24 Royce Hanson,  
25 As long as you make it clear that we're talking about policy areas.

26  
27 Councilmember Floreen,  
28 Well, yeah.

29  
30 Royce Hanson,  
31 We're not talking about individual intersections or links. We're talking about the average  
32 level of service for a policy area.

33  
34 Councilmember Floreen,  
35 So that's what this chart says.

36  
37 Royce Hanson,  
38 Yes.

39  
40 Councilmember Floreen,  
41 Everything's adequate but Germantown East and Fairland/White Oak; and they're on  
42 the line of these steps. So that's an accurate statement.

43  
44 Royce Hanson,  
45 I believe that's so.

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1 Councilmember Floreen,  
2 Agreeing that they're footnotes.

3  
4 Royce Hanson,  
5 Yeah.

6  
7 Councilmember Floreen,  
8 And so what Councilmember Berliner is proposing – and I know he has the votes, but I  
9 just think it's important to understand the implications. What is being proposed is that a  
10 different test than, I think, than what you have tested the County for. Is that correct?

11  
12 Royce Hanson,  
13 What Mr. Berliner's proposal does is establish a standard for partial mitigation that goes  
14 somewhat beyond the standard of partial mitigation that the Planning Board had  
15 recommended to you. As a result of that, there are more areas in which development  
16 will require partial mitigation than we had initially recommended.

17  
18 Councilmember Floreen,  
19 Well, I believe there is an effort – and I appreciate it – to connect the corners of these  
20 steps; and that's what this does.

21  
22 Royce Hanson,  
23 Yeah.

24  
25 Councilmember Floreen,  
26 I don't quite understand, though, the policy initiative – issues. What this says is that  
27 everything is A-okay in Clarksburg, in the rural west, in Germantown West, in the R&D  
28 Village, North Potomac, Cloverly, and – I think – Montgomery Village. Right? That's  
29 what this says. Let me see if I can provide an explanation that I believe is both accurate  
30 and reasonable. But –

31  
32 Council President Praisner,  
33 Let him finish.

34  
35 Councilmember Floreen,  
36 But he's not answering my question which is, "That's what's in the green, right?"

37  
38 Royce Hanson,  
39 The green areas have an acceptable level of service. That's correct.

40  
41 Councilmember Floreen,  
42 Under any scenario right now.

43  
44 Royce Hanson,  
45 The issue, I think, and one has to understand a couple of things about this approach;  
46 and I'll ask Dan to help me out if I get in trouble here. This is an effort to bring together,

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1 in one consolidated measurement, the relationship between arterial speed or time and  
2 transit speed or time. I think we have to recognize that when we're dealing with  
3 averages for individual areas, that these dots that you see – the triangles – represent a  
4 scatter diagram. They are the central point of a scatter diagram. Some places – in  
5 Cloverly, for example – will operate at below Level of Service "D." Some will operate  
6 probably at Level of Service "A." But the average for them for each mode of  
7 transportation ends up where you see the dot. Now, given that level of imprecision, it's  
8 not unreasonable to say that while we have a graph here that has form lines on it, that  
9 the closer you are to the red line then some level of mitigation ought to occur to prevent  
10 the situation from getting worse. That's what we had recommended in our modification  
11 of the original chart to you. And Mr. Berliner has simply established a more rigorous  
12 standard than we had established for that.

13  
14 Councilmember Floreen,  
15 Well, tell me how –

16  
17 Royce Hanson,  
18 That's a policy decision for you to make. Sure. Sure. That's fine.

19  
20 Council President Praisner,  
21 We've had some of this conversation several times, so if we could just focus on the new  
22 –

23  
24 Councilmember Floreen,  
25 Well, we haven't discussed what Mr. Berliner's –

26  
27 Council President Praisner,  
28 No, but it's –

29  
30 Councilmember Floreen,  
31 Thank you.

32  
33 Council President Praisner,  
34 -- it's a modification of what exists.

35  
36 Councilmember Floreen,  
37 My question is, "How do we solve these problems?" We'd asked –

38  
39 Council President Praisner,  
40 We are in gridlock, Nancy.

41  
42 Councilmember Floreen,  
43 Excuse me. Well, we're trying to achieve that; it's so true.

44  
45 Councilmember Trachtenberg,  
46 That's not fair, Nancy.

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Councilmember Floreen,

May I have the floor? We talked about Germantown East and Gaithersburg. What is the role of Government in addressing these issues? When we asked Karl several years ago – when we were confronted with the Planning Board’s recommendation to do away with Policy Area Review – folks, it wasn’t the Council. It was the Planning Board that recommended doing away with it because it wasn’t transparent; it was manipulable; it wasn’t clear; and it didn’t reflect reality – which is what the Planning Board told us. And they came up with a different test, which frankly is looking better and better to me right now. But at least you had something to shoot for. What I don’t know from this kind of proposal is, “How do we solve these problems?” Well, what Karl had told us is that previously if you looked at the unbuilt infrastructure and where it was and how that would address mobility – and we adopted a different kind of a test -- Mrs. Praisner was there when the Committee asked some years ago -- we were told transportation within an infrastructure within the Beltway was pretty much built out. And consequently, you would not propose further restrictions on that kind of construction or development – because the infrastructure was already there. But these tests include things like BCC and Silver Spring, where I don’t know how much more infrastructure – apart from the Purple Line – we can jam in there – or bus routes for that matter. What is your assessment of how we get Metro stations to a different level – I guess, to the green? It’s really not even a line – it’s to a green area. How do we get those station areas where we want to prioritize development – I thought – not in Cloverly, but that’s what we’re doing here – how do we get those transit stations to the green?

Royce Hanson,

I think there are basically two tools that Government has to improve trip mobility. First of all is capital improvements – certainly things like the Purple Line, the Corridor Cities Transitway, and other improvements – Montrose Parkway. We have a number of projects that are on the books now for construction that will make a difference.

Councilmember Floreen,

But Mr. Berliner’s proposal is –

Council President Praisner,

Nancy, let Royce finish. -- prioritizing -- Let Royce finish.

Councilmember Floreen,

I am trying to ask my questions and get my questions answered –

Council President Praisner,

But he was trying to answer.

Councilmember Floreen,

-- not Mr. Hanson’s questions answered.



Royce Hanson,

I'm trying to answer your question. One way is that we make various capital improvements. A second tool that we have is the regulatory tool -- and to use the regulatory tool to encourage, require, promote various forms of trip mitigation. That includes a wide range of activities that ultimately change behavior in significant ways and move people from single-occupancy automobile travel to other forms of movement -- especially public transportation -- but also including walking and biking. As I've pointed out many times, in our transit areas in particular there are extraordinary opportunities to both increase density and reduce congestion. Now, while that sounds counterintuitive, there is ample evidence that it occurs and that it can work. So the master planning process is the third technique that we have to address this issue. And that will mean that through both regulation, and the CIP in some cases, we will increase the amount of internal road circulation that can occur that relieves the major arteries from a lot of the local traffic; and we also can increase walking, biking, and the use of transit.

Councilmember Floreen,

So what are the capital improvements that we make inside the Beltway to increase arterial speed? Because that's what this, I think, is -- and I appreciate Mr. Berliner's effort here. That is what many of our residents are dependent on -- speed and mobility inside the Beltway. But what are the capital improvements that achieve that, if the test is speed on the roadway and you're talking about transit?

Royce Hanson,

You're talking about average speed on the roadway.

Councilmember Floreen,

All right. Yeah.

Royce Hanson,

Well, for instance, we're talking about a number of improvements related to BRAC including a grade separation at Cedar Lane and Wisconsin Avenue, which is recommended in the Master Plan as one of the things that is being studied. We're talking about the Purple Line.

Councilmember Floreen,

But that's a transit.

Royce Hanson,

That is transit, but transit investments have a major effect upon roadway congestion. My view is that we should emphasize the transit improvements -- both capital improvements and operational improvements -- as a means of reducing single-occupancy automobile congestion. Now, this will move us toward a lot of things that we have not done in the past. But if we're going to address a whole set of big problems -- that are frankly a lot more important than automobile congestion, such as the effect of automobile exhaust

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1 on air quality – then we’ve got to do some of these things. And they’re going to look  
2 easy in ten years from now compared to the way they look now. Well, I couldn’t agree  
3 with you more; but –

4  
5 Council President Praisner,  
6 This conversation is just very interesting, but I do think other councilmember lights are  
7 on, Nancy, so –

8  
9 Councilmember Floreen,  
10 I couldn’t agree with you more, but I don’t understand how a test that prioritizes  
11 vehicular mobility gets you to that point. And that’s what this test – the Planning Board  
12 proposal addressed these tensions in a way that’s different from how this does.  
13 Basically, this says we’re adopting a suburban standard for the whole County. I’ll have  
14 to confess that I liked our test a little bit better than I liked Mr. Berliner’s.

15  
16 Council President Praisner,  
17 Councilmember Berliner has requested an opportunity to comment –

18  
19 Councilmember Berliner,  
20 Just to respond to that last –

21  
22 Council President Praisner,  
23 -- and then we need to move on to other councilmembers.

24  
25 Councilmember Berliner,  
26 I appreciate that, and I do want to hear from my other colleagues. And I would like a  
27 vote, and I’d like us to move forward. But I think it is an important point to discuss  
28 whether or not this in fact promotes, if you will, sprawl as opposed to our smart growth  
29 philosophy. Because I perceive that what this does by requiring mitigation in our urban  
30 core, in our Metro policy areas, is actually promote more smart growth; and that it is not  
31 contrary to what our overriding objective is. That it is fair and appropriate to ask those  
32 who are building in our Metro policy areas to contribute their fair share. What it takes is  
33 the experience on the road to feed more mitigation into transit. We are using the road  
34 experience as a way of saying we need to make more investment in transit. Because  
35 our mitigation measures– particularly in our Metro policy areas – are going to be trip  
36 reduction focused. We’re going to get people out of their cars. What this proposal does  
37 – why I like it better than the Planning Board’s – is because it in fact does require more  
38 mitigation – gives us more resources to shift people out of their cars by using the car  
39 experience as the lever to fund the mitigation we need to have more transit. So I  
40 perceive it as a very pro-transit, pro-smart growth that uses the people’s experience on  
41 the road as the way to get there. So I thank my colleagues, and I would appreciate it if  
42 we could move forward as expeditiously as possible.

43  
44 Council President Praisner,  
45 Yeah. We have several more lights. Council Vice President Knapp.

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1 Council Vice President Knapp,  
2 Thank you, Madame President. I didn't have the benefit of sitting through the committee  
3 meetings, and so I'm just trying to make sure I understand this. I'm trying to stay  
4 consistent with what I've said for the last couple of weeks – which is, one of my big  
5 issues is to be able to explain it to people. And that's my first hurdle. So practically, if I  
6 pick any one of these charts – start with the Planning Board's chart as a baseline. We  
7 have this stair step model, and we've got all these dots. So pick Derwood because it's  
8 okay – so things are okay in Derwood. So the situation in Derwood means – looking at  
9 that dot – meaning whatever calculation – what calculation did you use to actually  
10 generate that dot, and then what does that dot mean?

11  
12 Royce Hanson,  
13 I'm going to let Dan respond to that.

14  
15 Dan Hardy,  
16 All right. That dot looks first of all at year 2011 – so we're looking at having a pipeline  
17 development in Montgomery County. We're looking at four years of regional growth in  
18 counties outside Montgomery County.

19  
20 Council Vice President Knapp,  
21 Right.

22  
23 Dan Hardy,  
24 We're looking at the projects that are included in the CIP, the CTP, or are going to be  
25 committed by development that goes with that pipeline.

26  
27 Council Vice President Knapp,  
28 So it assumes that whatever projects are programmed for the next four years in and  
29 around that area are actually constructed within that next four-year period?

30  
31 Dan Hardy,  
32 That's correct.

33  
34 Council Vice President Knapp,  
35 Okay.

36  
37 Royce Hanson,  
38 And that all development that is in the pipeline has been built.

39  
40 Dan Hardy,  
41 Correct. Then the dot itself is figured by looking on the location left and right, or along  
42 the "X" axis, is based on for residents of that policy area, what is the average  
43 opportunity to take transit to get to work – depending upon where they want to work –  
44 compared to the ability to take the auto to work – and how fast is the speed of the transit  
45 compared to the speed of the automobile.

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1 Council Vice President Knapp,  
2 Okay. So in this dot if I go up the left-hand side, I'm looking at roughly 47% relative  
3 arterial mobility.

4  
5 Dan Hardy,  
6 That's the -- right.

7  
8 Council Vice President Knapp,  
9 Which means if I go back to Circle 4 in one of these packets -- the one with the chart  
10 that says, "Relative Arterial Mobility and Arterial LOS" -- 47% is between -- it's at least  
11 40% of highway speed, which is a "D." But at least 47% of highway speed means at  
12 least 40% of whatever the posted speed is in that area?

13  
14 Dan Hardy,  
15 With signal delays as well.

16  
17 Council Vice President Knapp,  
18 Right.

19  
20 Dan Hardy,  
21 You would travel at midnight, essentially, as opposed to what you travel during rush  
22 hour.

23  
24 Council Vice President Knapp,  
25 Okay. So that means that -- so I'm above 40%, so that's okay.

26  
27 Dan Hardy,  
28 In that area because of the level of transit service in Derwood, 40% is okay.

29  
30 Council Vice President Knapp,  
31 So if I follow the bottom axis across, it is 74% of relative transit mobility -- which means  
32 what?

33  
34 Royce Hanson,  
35 It means that the average transit commuter is able to get from home to work in 70% of  
36 the time that it would have taken to go by automobile.

37  
38 Dan Hardy,  
39 Actually, it's the other way around.

40  
41 Royce Hanson,  
42 It's the other way around.

43  
44 Council Vice President Knapp,  
45 All right. Say that again.

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1 Council President Praisner,  
2 Let Dan answer the question.

3  
4 Councilmember Berliner,  
5 There's only one person that can explain that.

6  
7 Royce Hanson,  
8 Let Dan say it.

9  
10 Dan Hardy,  
11 That says that the average transit commuter is going to be going about 70% as fast as  
12 the average auto commuter.

13  
14 Royce Hanson,  
15 That's right. Yeah. I misspoke.

16  
17 Dan Hardy,  
18 It's speed, not time.

19  
20 Council Vice President Knapp,  
21 Is going to be going 70% as fast as 40%?

22  
23 Dan Hardy,  
24 No. Those two axes are totally unrelated in terms of the experience. So it just means  
25 that – an easier way to say it is that from Derwood, if you were trying to go downtown to  
26 the District, most likely your trip would be faster on transit than it would be in auto  
27 because you could get on the Shady Grove Metro Station and take transit all the way  
28 downtown.

29  
30 Council Vice President Knapp,  
31 Okay.

32  
33 Dan Hardy,  
34 If, on average, everybody in Derwood had a faster transit opportunity than an auto  
35 opportunity, Derwood would be off the chart to the right.

36  
37 Council Vice President Knapp,  
38 Now, does that trip assume all facets? So if I have to assume I have to get to Metro first  
39 –

40  
41 Dan Hardy,  
42 It does.

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1 Council Vice President Knapp,  
2 So wherever I came from, I got to Metro; I got on Metro or some form of transit; took  
3 that to where I needed to get to. And it was faster to do that than it was to take my  
4 automobile?

5  
6 Dan Hardy,  
7 Yes.

8  
9 Council Vice President Knapp,  
10 And so if that was even faster, it would just continue out to the right further?

11  
12 Dan Hardy,  
13 Right. And the level of service criteria -- we don't show a Level of Service "A." A Level of  
14 Service A is greater than 100%, that folks can get places faster on transit than they can  
15 in the auto. And for some individual trips in this region, that's true. For any of our policy  
16 areas in aggregate, given the range of where people live relative to the transit and  
17 where they want to work relative to transit, we do not have any policy areas where the  
18 average experience is a Level of Service "A."

19  
20 Council Vice President Knapp,  
21 Okay. So that takes Derwood, which is a place where in four years everything is fine,  
22 assuming all of the various things that you've already assumed -- that's acceptable. I'm  
23 not sure what that means -- if that makes it "A," "B," "C," or "D" -- but it's in the green  
24 area, so that -- green is good; right?

25  
26 Dan Hardy,  
27 Right.

28  
29 Council Vice President Knapp,  
30 Green is good. Okay.

31  
32 Councilmember Berliner,  
33 Green is good.

34  
35 Council Vice President Knapp,  
36 So then you go back, and you've got the white area. So Olney appears to be in the  
37 center. So you've got Olney as a dot in the white area.

38  
39 Dan Hardy,  
40 Mm-hmm.

41  
42 Council Vice President Knapp,  
43 So what's the difference between Olney and Derwood, relative to what you've just  
44 explained?

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1 Dan Hardy,  
2 That folks in Olney are a little bit farther removed from good transit.

3  
4 Council Vice President Knapp,  
5 Okay.

6  
7 Dan Hardy,  
8 The typical commuter leaving Olney does not have the same transit availability as the  
9 commuter leaving from Derwood. And that's why Olney is farther to the left on the chart.  
10 And roads in Olney are a little bit more congested on average than they are in Derwood  
11 which –

12  
13 Council Vice President Knapp,  
14 Probably because there's less access to transit.

15  
16 Dan Hardy,  
17 That's part of it, mm-hmm.

18  
19 Council Vice President Knapp,  
20 Okay.

21  
22 Royce Hanson,  
23 That's part of it.

24  
25 Council Vice President Knapp,  
26 Okay. And so then if you continue our leftward migration here, "GBG" I'm assuming is  
27 Gaithersburg?

28  
29 Royce Hanson,  
30 That's correct.

31  
32 Dan Hardy,  
33 That's right.

34  
35 Council Vice President Knapp,  
36 And so that means that if – right, not the city. Okay. So, oh I'm sorry. And the white part  
37 – because of the fact that we're in the white area, that requires partial mitigation.

38  
39 Dan Hardy,  
40 Right.

41  
42 Council Vice President Knapp,  
43 And partial mitigation would be –

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1 Dan Hardy,  
2 Partial mitigation is instead of having to mitigate all of your trips -- we're kind of jumping  
3 ahead to the types of mitigation for Policy Area Mobility Review --  
4

5 Council Vice President Knapp,  
6 Okay. I'm just trying to follow through the steps. Okay.  
7

8 Dan Hardy,  
9 So what that means, if you're in the white area, you do not need to mitigate all your  
10 trips. You need to mitigate a proportion of them, depending upon where you are in the  
11 white area.  
12

13 Council Vice President Knapp,  
14 Okay. And then if you go to Gaithersburg, that means, so you're red. So neither's  
15 working -- neither transit nor auto -- and so the next step would be there that all of those  
16 trips require mitigation. Correct. Okay. I think that makes sense. And so now if I look at  
17 -- take your Option E(1) and look at -- oops -- not the PHED Committee, sorry. Now,  
18 we've got Councilmember Berliner's proposal in front of us. What's the difference  
19 between those two proposals, other than the fact I've got a bigger triangle here at the  
20 bottom? How do I get from this to this? [from Planning Board chart to Councilmember  
21 Berliner's chart] What are the changes that were made on one graph to get to the next  
22 graph?  
23

24 Dan Hardy,  
25 That the red area -- if you look at Option E(1), the Planning Board's graphic -- the  
26 Planning Board suggested that we could tolerate Average Level of Service "E," if we  
27 had Transit Level of Service "B." So there is --  
28

29 Council Vice President Knapp,  
30 What? Say that again.  
31

32 Dan Hardy,  
33 The Planning Board suggested that if we had Transit Level of Service "B," which is  
34 between 75% and 100% relative transit mobility, that we could then accept Arterial  
35 Level of Service "E," which is the area between 25% and 40% on the Relative Arterial  
36 Mobility Axis. So in other words in the lower right corner of the chart, there's an area  
37 that the Planning Board said should not be red.  
38

39 Council Vice President Knapp,  
40 So you guys said we get to here --  
41

42 Dan Hardy,  
43 Mm-hmm.  
44

45 Royce Hanson,  
46 Right.



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1 Council Vice President Knapp,  
2 Okay.

3  
4 Dan Hardy,  
5 And then if you continue going to the lower right, that there's an area because transit  
6 service is excellent – or Level Service “B” – we could allow more arterial congestion.

7  
8 Council Vice President Knapp,  
9 Okay. And so if we go back this way [to the left on the chart] –

10  
11 Dan Hardy,  
12 That would mean transit service was getting poor – actually, but the only difference  
13 between the Planning Board's chart and Councilmember Berliner's chart is the part to  
14 the right.

15  
16 Council Vice President Knapp,  
17 Okay.

18  
19 Council President Praisner,  
20 This side.

21  
22 Royce Hanson,  
23 Yeah. Rather than allowing arterial service to go to the Level of Service “E,” basically  
24 Mr. Berliner's proposal says it shouldn't go below “D.”

25  
26 Dan Hardy,  
27 Right.

28  
29 Royce Hanson,  
30 And that changes the character of the diagonal.

31  
32 Dan Hardy,  
33 Right. I should say the only difference in the straight line –

34  
35 Council Vice President Knapp,  
36 Are stair steps.

37  
38 Dan Hardy,  
39 -- between the Planning Board's chart and Mr. Berliner's chart is that moving 25% up to  
40 40% on the arterial axis for transit Level of Service “B.” Since we have defined a partial  
41 mitigation as being connecting the points on the stair step --

42  
43 Council Vice President Knapp,  
44 Okay.

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1  
2 Dan Hardy,  
3 -- there is then a change that the shape of the white triangle that is --

4  
5 Council Vice President Knapp,  
6 Which gets to this little cluster over here on the right-hand side.

7  
8 Dan Hardy,  
9 That's right.

10  
11 Council President Praisner,  
12 That's right. Mm-hmm.

13  
14 Council Vice President Knapp,  
15 Okay. All right. That helps understand those pieces. So to try and understand how we  
16 got to this point in your proposal, so this is recognizing the notion that we wanted a  
17 Policy Area Review of some sort. You wanted to go back and look at a way that we  
18 could assess this that would not just put an area into a moratorium but to actually go in  
19 a direction --

20  
21 Royce Hanson,  
22 That's correct.

23  
24 Council Vice President Knapp,  
25 -- which I think is laudable. That was one of my frustrations with policy area review in  
26 the first place, was to just put a place in the moratorium never made much sense.  
27 Practically, has anybody used a model like this anywhere?

28  
29 Dan Hardy,  
30 There are elements of this in entire philosophy that do relate to the tests that were used  
31 in Policy Area Transportation Review. So the linking of transit and auto performance is  
32 something that the County has been doing for some time. This specific --

33  
34 Council Vice President Knapp,  
35 Yeah, but that doesn't speak well then because we only didn't have Policy Area Review  
36 for the last three years And so presumably if we had policy review up to that point, if we  
37 use those elements -- policy review kind of at least contributed to getting us into the  
38 mess that people perceive us to be in. So what part of this is different and better?

39  
40 Royce Hanson,  
41 Well there are other, I think, cruder approaches that are used in various jurisdictions.  
42 Vancouver, for instance, took the position that they're not going to worry about  
43 automobile congestion -- period. They're just going to focus on making transit  
44 improvements. Some jurisdictions in Florida have --

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1 Council Vice President Knapp,  
2 And what has been the net effect of that?

3  
4 Royce Hanson,  
5 The net effect of that in Vancouver is that a lot people ride transit, walk, and bike. They  
6 have a very high modal split.

7  
8 Council Vice President Knapp,  
9 Because congestion has just gotten so bad that any alternative is better?

10  
11 Royce Hanson,  
12 Congestion's bad at some times; most times it flows pretty freely.

13  
14 Council Vice President Knapp,  
15 Okay.

16  
17 Royce Hanson,  
18 But they don't have any freeways within the city.

19  
20 Council Vice President Knapp,  
21 So but you're saying that their investment in transit –

22  
23 Royce Hanson,  
24 They've made major investments in transit –

25  
26 Council Vice President Knapp,  
27 Okay, without focusing on the congestion piece.

28  
29 Royce Hanson,  
30 -- mostly bus transit. But they also have rail transit.

31  
32 Council Vice President Knapp,  
33 Okay.

34  
35 Royce Hanson,  
36 You have other jurisdictions that have taken the existence or presence of public transit  
37 into account when they have figured out things. But most -- I don't think -- most  
38 jurisdictions just use a local area transportation review.

39  
40 Council Vice President Knapp,  
41 Okay. One of the examples we get cited a lot around here – especially when I do  
42 Council of Government stuff – is Arlington as a model of something we should be  
43 looking at. And, obviously, not all of Montgomery County translates into Arlington as a  
44 model; but we certainly have corridors that are comparable. Do they do something  
45 along these lines that creates – because I lived there fifteen years ago; and quite  
46 interestingly, traffic is better now than it was then.

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Royce Hanson,  
Right.

Council Vice President Knapp,  
And they haven't built any new roads.

Council President Praisner,  
Well, I-66 is –

Royce Hanson,  
No, but – well, they had I-66, which was built –

Council Vice President Knapp,  
Right.

Royce Hanson,  
-- twenty some years ago. The 90s and the mid -- their basic infrastructure now is the same as it was, and they've had – And that is the result of the redevelopment that they've done in areas like Boston and Clarendon. They're starting now on Columbia Pike -- in which they have really – working with their communities over a period of time - - they have massively increased the density of these areas. They have improved local circulation. But they have placed the major emphasis on transit, on biking, and walking. Arlington, for instance, has an extraordinary bicycling system. People tend to discount it. But they have, I believe now, a modal split of about 6% of their rush hour traffic is – it's either 4 or 6%. But it's a large number for bicycling.

Council Vice President Knapp,  
But how is that – presumably that's the same type of activity as Mr. Berliner was just talking about. We want to do that type of smart growth. What incented that activity? Does this type of a process – no matter whose chart we pick – get us that incentive to make that type of development?

Royce Hanson,  
Kind of -- they have required high levels of mitigation. Their transit demand – the management program is a very tough program. And they have done a lot, both with their residential development in apartments and in their office development, to require high levels of traffic mitigation. They have almost in every building a traffic manager who works with the tenants of that building – whether their residents or nonresidential users – to encourage transit riding, to provide carpooling. They're doing a better job than we are, I think, on parking management -- which is one of the things that we want to come back to you with further study on. And did they put these pieces in place as one fell swoop?

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1 Council Vice President Knapp,  
2 Has this been an evolution over a period of time, where they did facets at a time and  
3 built upon them?

4  
5 Royce Hanson,  
6 Well, I think it's fair to say – and Dan and Rick may know more about this than I – but  
7 my impression is from talking with people who have been involved with this over the  
8 years is that beginning in the late 60s early 70s, they took the position that their  
9 Transportation Department was an all modes department.

10  
11 Council Vice President Knapp,  
12 Okay.

13  
14 Royce Hanson,  
15 And they have systematically worked over that period of time to give equal weight to all  
16 modes of transportation and to try to encourage and beef up non-auto modes. A lot of it  
17 has been trial and error. They've tried some things that didn't work as well, and one has  
18 to proceed that way.

19  
20 Dan Hardy,  
21 They established a Transportation Demand Management Policy in 1990. My  
22 understanding is that they then, like us, have been working on all the facets of that over  
23 time; and so it continues to evolve.

24  
25 Council Vice President Knapp,  
26 Right. Okay.

27  
28 Council President Praisner,  
29 Further questions?

30  
31 Council Vice President Knapp,  
32 Just a couple more. I'm getting there. My biggest issue is to be able to explain it and  
33 then to have some understanding of at the outset do we – I'd said, "Does this change  
34 something that's broken?" That was one of the pieces. And the other was, "It creates a  
35 measure of sustainability. What do you characterize this process as doing?" -- what's in  
36 front of us.

37  
38 Royce Hanson  
39 What we characterize this process as doing is moving us toward a greater emphasis on  
40 transit and on a process of mitigating automobile trips as a means of helping us achieve  
41 a sustainable form of development. This gives us a great deal of leverage and emphasis  
42 when we review subdivisions to encourage non-auto forms of movement.

43  
44 Council Vice President Knapp  
45 Okay. So sustainability, I hear?

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1 Royce Hanson,  
2 That's where you get, ultimately. If we're going to have sustainable development in the  
3 County, we really need to reduce automobile travel from an energy point of view and  
4 from an air quality point of view.

5  
6 Council Vice President Knapp,  
7 Okay.

8  
9 Royce Hanson,  
10 And we also need to increase density in many areas in order to reduce carbon footprint  
11 generally.

12  
13 Council Vice President Knapp,  
14 Okay. So from the "management of expectations department," this is something that  
15 you're going to get to over a period of time from a sustainability perspective. You're not -  
16 - this isn't going to -

17  
18 Royce Hanson,  
19 It won't happen next year, no.

20  
21 Council Vice President Knapp,  
22 This isn't digging anybody out of a hole. This is trying to get people someplace over  
23 some period of time.

24  
25 Royce Hanson,  
26 It's trying to follow the first rule of holes - which is, "When you're in one, stop digging."

27  
28 Council Vice President Knapp,  
29 Okay. All right. Now, my last question or questions comes from the County Executive  
30 who sent us another memo this morning saying, "I want to reiterate my request that the  
31 Council adopt a Policy Area Transportation Review that stages development in a  
32 manner that realizes the balance of land use and infrastructure that reflect in the Master  
33 Plans. I don't think PAMR does this. I would like to hold off for six months on adopting  
34 PAMR." Or, alternatively, he suggested putting something in on an interim basis.  
35 Practically, if we were to hold off for six months, what additional conversation would  
36 occur that would get you to a point different than what we have in front of us today? I  
37 mean you guys have been looking at this for a year and a half. What would be different?

38  
39 Royce Hanson,  
40 Well, I can't tell you; I really don't know. I think we are quite amenable to continuing to  
41 examine this approach and to try to perfect it.

42  
43 Council President Praisner,  
44 Let me comment because the Committee had several conversations about this issue.  
45 And within the Work Plan -- and if it needs to be massaged further within the Work Plan  
46 -- our requirements and requests and a timetable that is much more aggressive than

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1 waiting two years for the next Growth Policy to continue to review and monitor a variety  
2 of things – including the PAMR piece – improvements on the PAMR. And trip mitigation  
3 issues are central and integral to this issue. And a question of beginning and continuing  
4 to review and massage what is eligible as a trip mitigation and how we calculate trip  
5 reduction, as well as looking at jobs and housing through the Master Plans that will be  
6 coming to us. But in addition to that, looking broadly at the issue of jobs and housing are  
7 all things – including the sustainability quality of life indicators – which speak to some of  
8 these pieces as well – is work that the Planning Board will be working on. We would  
9 invite – and I don't think the Committee was objecting to -- County Executive staff  
10 participation in that work. But we've charged the Planning Board staff and Planning  
11 Board with developing and bringing those things to us on a timetable that is much more  
12 aggressive and is ongoing than the two-year Growth Policy cycle has been. And I think  
13 everyone has acknowledged that putting a new Policy Area Test in place will require us  
14 – as does every Growth Policy, but this one especially – to continue to review, modify,  
15 massage, improve, discuss, and evaluate where we are and how it is being  
16 implemented.

17  
18 Council Vice President Knapp

19 I'd just be curious -- just from the Executive's perspective -- what you would see  
20 differently rather than just having one out there that does what the Council President  
21 just indicated.

22  
23 Edgar Gonzalez,

24 The way we have envisioned it and we have presented to the County Executive -- he  
25 has agreed to pursue it -- It would be a totally different test. It would be a test that would  
26 be more understandable, more transparent. It would take into consideration what the  
27 Master Plans – that are supposedly in balance between the land use and transportation.  
28 There would be a much better relationship between what has been adopted by this  
29 County Council as Master Plans as to what the ultimate balance will be. It will have just  
30 as equal emphasis on transit as PAMR. The emphasis on transit for mitigation can  
31 occur regardless of whether you have PAMR or you have some other test.

32  
33 Council Vice President Knapp,

34 All right. With all due respect, Edgar, we're doing this six months later than we'd  
35 originally anticipated doing it; and so it's not like there wasn't time to have put some of  
36 those ideas forward back in the spring and early summer. So what do we get in the next  
37 six months that we didn't have in the last six months?

38  
39 Edgar Gonzalez,

40 You have different people involved in the process.

41  
42 Council President Praisner,

43 Oh, Edgar, come on. This is the Planning Board's responsibility. I'm not sure what you  
44 mean by "different people." We're not changing the Planning Board.

45  
46 Edgar Gonzalez,

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1 No, what I mean is at the Executive staff level; that's what I mean. I don't mean that you  
2 change the Planning Board, absolutely.

3  
4 Council Vice President Knapp,

5 All right. My last question I guess would be, in the latter part of the paragraph, the  
6 County Executive asked that if we do something, we do it on an interim basis. What  
7 would be an interim basis different than the fact that we adopted a Growth Policy for  
8 only two years – and so effectively we'll be back here in a fairly short period of time  
9 anyway?

10  
11 Diane Schwartz-Jones,

12 If I may –

13  
14 Council Vice President Knapp,

15 Sure.

16  
17 Diane Schwartz-Jones,

18 The interim basis is basically for six months. And in terms of how to respond to PAMR, I  
19 am very much new to this whole discussion; but I've watched everybody struggle with  
20 what PAMR is and what PAMR does. And the County Executive and the County  
21 Executive staff also have struggled with it. And what is clear is, as Edgar indicated, is  
22 that we really think that we need to relate what happens with trip generation with what  
23 the various policy area has planned for. And that's what the staff sees as missing.  
24 That's what we would like to work with the Planning Board to have introduced into it.  
25 And there are concerns as we've gone through it and tried to – everybody's trying to  
26 wrestle to understand PAMR. We have recognized that there are certain assumptions  
27 that lead to conclusions that don't necessarily make sense. And the fear is that with  
28 PAMR, we will end up with worse congestion than what we currently have.

29  
30 Council Vice President Knapp,

31 From a practical perspective from the Planning Board, if we put this in place really – so  
32 say the Council adopts this next Tuesday – in six months to a year, how much is going  
33 to come through that you guys would actually relate this?

34  
35 Royce Hanson,

36 It's hard to predict that. Right now there's a slow down –

37  
38 Council Vice President Knapp,

39 Right.

40  
41 Royce Hanson,

42 -- in development activity. On the other hand, one or two very big projects could come  
43 in. I really have no idea.

44  
45 Council Vice President Knapp,

46 Yeah. But we're not going to see the practical effects of any of this for a while.



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Royce Hanson,  
Well, you won't see the practical effects on the ground until development occurs. And you're talking about a lead time here of four to five years –

Council Vice President Knapp,  
Right.

Royce Hanson,  
-- before projects are finished. The longer you delay doing something, the longer before you see any practical results. I frankly don't have any idea what the Executive is talking about here. We would be happy to have their participation in review and in working through any of the problems. I would like to point out, however, that the Planning staff and the Board reviewed, I believe, six different alternative approaches to this system.

Council Vice President Knapp,  
Right.

Royce Hanson,  
We analyzed and discussed them in the report. And there may be others out there. And we're certainly ready and willing to make adjustments and to try to improve the process in any way that we can. The one we chose was chosen in part – in large part – because it is clearer than most of the alternatives.

Council Vice President Knapp,  
Okay. My last question –

Royce Hanson,  
That may not get us the clarity that we would all like.

Council Vice President Knapp,  
Well and to be fair, at least over the last -- for the five years I've been here and the years preceding that -- this has been the bane of however many councils' existence of how you do the right test and how do you increase transparency. And you have a black box; you've got not a black box. You've got lots of different ways that the transparency piece, I think, continues to be an issue. Last question -- from a consistency perspective, one of the issues that I struggled with was Policy Area Review; and it was one of the problems we had with the debate four years ago was there was conjecture that, "Well, we get this much money from a developer if we do this; we get this much money if we do that." But there was no -- it varied from project to project. It varied from area to area. And so it was a very subjective assessment as to who was paying what, when. And so one of the things -- I'm not losing a lot of sleep over the numbers per se if whoever's walking in our door can walk in and know that, "If I do these things, I pay this amount; these next things happen," as opposed to walking in the door and still not knowing what they're dealing with. If we have a process like this in place, how does whatever the next project is proceed; and how does whoever's doing it know what the requirements will be and what the impact will be on that?

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1  
2 Royce Hanson,  
3 This is one of the real advantages of PAMR. Under the old Policy Area Transportation  
4 Review, people had to do their transportation model for their particular project; and  
5 nobody knew until you got down to it, what they were going to have to do.  
6

7  
8 Council Vice President Knapp,  
9 Right.  
10

11 Royce Hanson,  
12 Here, you know if you're in the green area that your transportation facilities are  
13 acceptable and that all you have to do is meet the Local Area Transportation Review  
14 tests. If you're in the red area, you know that you have to do 100% mitigation.  
15

16 Council Vice President Knapp,  
17 That's easy for you to get -- that's easy for me to get a compilation that shows those  
18 things?  
19

20 Royce Hanson,  
21 What?  
22

23 Council Vice President Knapp,  
24 It'll be easy for someone to figure out to do the transportation test to show that?  
25

26 Royce Hanson  
27 Actually, we tell them at the beginning.  
28

29 Council Vice President Knapp  
30 Okay.  
31

32 Royce Hanson,  
33 If you're in the white area on the chart, depending on where you are, we can tell you  
34 what the percentage of mitigation you will be required to make when you file your  
35 application. Transportation staff can say, You need to make 15% -- mitigate 15% of your  
36 trips, or you need to mitigate 50% of your trips, or 5%. And that is a major advantage in  
37 the processing of applications. People can begin to think about what to do. They don't  
38 have to spend several thousands of dollars undertaking a transportation study and then  
39 go through a process of negotiating with the staff and us reviewing and finding out  
40 whether or not their study is done properly and so on. It saves staff time. It saves money  
41 from the front end of the development process. And it brings us to closure much faster  
42 on what it is people have to do. Okay. Thank you, Madame President.  
43

44 Council President Praisner,

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1 We have two other councilmembers on lights. We've been talking for a little over an  
2 hour. I'm going to call on those two councilmembers, and then we are going to vote on  
3 this amendment by Mr. Berliner in front of us. Councilmember Ervin.

4  
5 Councilmember Ervin,

6 Thank you. It's interesting to me how Councilmember Berliner can say that this is smart  
7 growth when, in fact, in my office we've not only received a letter from Council  
8 Executive Ike Leggett, but from Action Committee for Transit, the Coalition for Smarter  
9 Growth, the Sierra Club Montgomery County, the Montgomery County Housing  
10 Partnership, Inc., etc. – all saying they're very concerned about the direction that we will  
11 be going if we adopt Mr. Berliner's proposal. And I want to read just real quickly from a  
12 statement that I think really speaks to where I'm coming from and why I'm most  
13 concerned about this direction. And that is that the groups urge – this is a press release  
14 that went out. "These groups urge the County Council to base its Growth Management  
15 Policy on achieving reductions in the total number and length of auto trips generated by  
16 new developments instead of requiring more traffic lanes on nearby roads which tend to  
17 fill up almost as quickly as they are built. Specifically, the groups called for an incentive  
18 structure that directs development toward Metro stations and discourages scattered  
19 auto-dependent development in Greenfields." It seems to me that the approach that this  
20 will send the County into is moving more and more development further and further out,  
21 instead of the other way around. And it is, in fact, true that 80% of all our development  
22 has occurred away from Metro station policy areas. And if our policy goals are to remain  
23 intact, it seems to me like we're going in opposite directions here. And I really  
24 appreciate the County Executive's letter; and I appreciate what his staff came over and  
25 just said to us this morning because I think that's precisely the direction I'd like to see  
26 the Council go in. And so I am most concerned that – I know a lot of people are in a  
27 hurry to get to the end results. It's clear that the votes are going in the other direction;  
28 but I have to really state clearly my desire for us to all understand exactly where we may  
29 be going and the unintended consequences of a hurry-up approach. And every day that  
30 I sit in my office, more information comes across our desks that requires us to spend a  
31 little bit more time deliberating about the decisions that we're going to make and how far  
32 into the future these decisions will send out ripples. So I just believe that we're going in  
33 the wrong policy direction if we're going to require some mitigation in the Silver Spring  
34 area, in the Kensington-Wheaton Metro Station Policy Area. I've very, very confused  
35 that we're sending the message out there that if you want to build in a smart-growth  
36 manner near and in MSPAs, that this Council is actually taking a dramatic step in the  
37 wrong direction.

38  
39 Council President Praisner,  
40 Councilmember Elrich.

41  
42 Councilmember Elrich,

43 I guess I have the opposite view. I think the Council's taking a dramatic step in the right  
44 direction. And while I think there are things that need to be refined about this test, and I  
45 agree with the concerns that have been raised to some extent, I share some of the  
46 frustrations other people have expressed. Neither the smart growth people – more from,

1 in truth, the Executive side – offered us a plan to consider within the timeframe that we  
2 were supposed to consider this -- by November 15th. And it's one thing to say we  
3 should adopt a policy of vehicle miles reduction, which sounds good; it's another thing  
4 to flesh out what that policy should have been. And I feel that people certainly absented  
5 themselves from contributing to how we could look at things, while a lot of people spent  
6 a lot of time debating these issues and trying to figure out what the right thing to do is.  
7 From my understanding of past Councils, this may be the longest any Council ever  
8 spent on a Growth Policy – not the shortest. We started out by saying, "Think about it  
9 and accelerate it for a July approval," where these things are normally done in the fall.  
10 And the work was usually begun in a couple of months and brought to the fall meeting.  
11 So this Council has not sped and hurried the process up. This Council spent longer than  
12 any Council ever deliberating how to get this thing done. So I reject the argument that  
13 somehow this is a hurry-up job. I think that – and I believe I'm going to disagree about  
14 one of the things I think the Executive said about the possibility of making traffic worse. I  
15 think under the original PAMR, as it was originally proposed, that is exactly what the  
16 outcome would have been. That's why I fought so hard to get the change to that –  
17 because that was a continual slide, and the slide had no bottom. And as long -- and the  
18 only thing that mattered was the ratio of the bus speed or the bus trip to the car trip. And  
19 so the slower the cars got, the slower the buses stuck in the same traffic got. And as  
20 long as that ratio was maintained -- whether it was 10 miles an hour to 15 miles an hour,  
21 or 4 miles an hour to 6 miles an hour – that was considered acceptable. And by putting  
22 the 40% floor on this, we've eliminated the slide. We've said, "This is not going to get  
23 any worse than this. This is where we're going to draw the line, and this is where we're  
24 going to begin to require mitigation." So it addressed these changes. It addressed -- one  
25 of my biggest concerns was that the original test would of let things go to total – since  
26 some people already think we're in gridlock, I guess whatever gridlock plus would be  
27 defined as. And I think that we've prevented that from happening. I think Mike's question  
28 about, "What does this do or where does this go?" is really critical. And this is only a  
29 test. And I think what it brings to mind is there's a whole bunch of other stuff we have to  
30 do. The real reason I'm willing to accept the lower levels of mitigation right now is we  
31 don't have some of the other tools – such as parking management – to put into place in  
32 order to make a high level of mitigation possible. We don't have a transit system yet.  
33 How many buses are we able to buy in the next couple of years because we don't have  
34 a facility to take care of them? Two. We don't have a transit system in place that if we  
35 said we wanted people to get out of their cars and ride transit, we don't have a transit  
36 system that can absorb that ridership or can move people. So this policy is just part of  
37 what we need to do. It sets a floor, and I believe it requires more mitigation – not less  
38 mitigation. But this Council's going to have to address, I think, not only the additional  
39 questions we're giving the Planning Board to look at, but broader questions about,  
40 "What's the real Transportation Policy for Montgomery County?" -- "What do we need in  
41 the mass transit area?" And I don't mean subways, because we're not going to be  
42 building any of them I don't think. What are we going to need to do in order to get things  
43 moving in a way that we haven't been able to do so far? Somebody made a comment  
44 about this policy prioritizing places like Cloverly. In my view, this is why we have Master  
45 Plans. The development in Silver Spring could not occur in Cloverly. There is no Ripley  
46 Street or Ripley District in Cloverly where you're going to put 200-foot tall buildings with

1 radio towers on top -- or whatever else we're going to do. So it's not the case that just  
2 because we require mitigation in Silver Spring that Silver Spring will replicate itself  
3 outside of Silver Spring. The Master Plans are supposed to provide those limits. If they  
4 don't, we certainly ought to be reviewing them. We certainly need this larger discussion  
5 about jobs and housing balance, and whether or not our Master Plans help that or hurt  
6 that. And I hope that's one of the things that gets into this discussion is, If our Master  
7 Plans aren't consistent with what we know we need to accomplish in the way of a  
8 jobs/housing balance, then that needs to be part of this discussion also. I also want to  
9 say that I have a hard time with people who seem to think that the way to get people  
10 into transit is to turn the roads into total hell. There seems to be an attitude among some  
11 people that the correct strategy for dealing with this problem is to let things slide into  
12 total gridlock, and then hope that people will get out of their cars and get on transit. And  
13 I could support that if we had a grade-separated underutilized transit system that could  
14 get people everywhere cars could get them. But the reality is, we've got a bunch of  
15 buses that run on the service in the exact same traffic as the cars are in. And if we let  
16 auto speeds slow down to 10 miles an hour -- 8 miles an hour -- the buses are going to  
17 be doing 5 or 6 miles an hour. No one is going to get out of a car to get in a bus to go  
18 even slower than their already miserably slow car trip. So we need a strategy, other  
19 than forcing misery on people, in order to deal with our transportation problems. And so  
20 I reject the thinking that presupposes that if you make life bad enough, people will  
21 change their mode of transportation. I also want to remind people that this is a policy  
22 area. And I think Mr. Hanson made a good point that things are all over the place in a  
23 policy area; and where you really catch things is local area review. And that is the back-  
24 up. And I'd like to see local area review strengthened. You all know my criticisms of how  
25 many intersections you count or don't count. And I do hope the Planning Board will give  
26 thought to the wisdom of not counting vehicles that you know are going to be on the  
27 road. That whether or not it's optional how many intersections you count, I really do  
28 think that philosophically you've got to take the approach that, "If I know the cars are  
29 there, I'm going to count them," -- and not that, "I'm not going to count them because  
30 the Council says you only have to count five intersections away." The last thing I want to  
31 say is I got this letter from -- I guess Ms. Praisner got the letter first -- from JB -- is it  
32 JBG? -- and No. 8 in their recommendations is, "Serious consideration should be given  
33 to using parking as a tool in the Growth Policy. Parking availability and cost has a major  
34 impact on transit use." I've had a number of conversations with both developers and  
35 land use attorneys. This is the way to get development around the Metro stations where  
36 we can most easily do this; and it's a way, I think, for the development community to be  
37 able to continue to work in the County in a way that doesn't turn things into a bunch of  
38 immovable objects in the morning between 6:00 and 9:00, and in the evening between  
39 4:00 and 7:00. And I think one of the things that could come out of this is that if we really  
40 did set parking caps in the CBDs where we had Metro stations that really reflected  
41 realistic levels of congestion on the roads, that it would be possible to not have to do  
42 PAMR tests or local area tests. If we've already decided how many cars can come into  
43 an area and everybody lives by that cap, it no longer becomes relevant what your  
44 project's going to be because you can't produce more cars than what's on the cap. So I  
45 think this is -- I'm really glad to see it's in your future study program. And while I'm not  
46 100% happy with this, it's better than doing nothing. It's better than having no standards

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1 and letting things slide. And I think that if we work really hard, we can make it better.  
2 And I'm not going to wait two years. I assume if you bring back recommendations in six  
3 months that we'll be willing to look to improve this as soon as we have the opportunity to  
4 improve it.

5  
6 Council President Praisner,  
7 Okay. Councilmember Berliner's substitute motion is in front of us. It modifies the PAMR  
8 chart. It modifies the percentage mitigation from the Committee's recommendation. And  
9 it continues to use four years as the transportation capacity programmed measures. All  
10 in favor of the substitute motion, indicate by raising your hand. [Show of hands]  
11 Councilmembers Andrews, Berliner, Knapp, Praisner, Trachtenberg, and Elrich. Those  
12 opposed? Councilmembers Floreen and Ervin. Next item, Mr. Orlin.

13  
14  
15 Glenn Orlin,  
16 The next item is at the bottom of page 3. And this is actually an issue that's not been  
17 before the Committee before; it's a new one. But it's related to discussions you've had  
18 about de minimis development. You adopted for the School Test tentatively and from  
19 LATR tentatively de minimis levels. And we're suggesting that if you have a Policy Area  
20 Review, there needs a de minimis test for this as well. We're suggesting that  
21 developments generating three or fewer peak-hour trips be exempt from the Policy Area  
22 Review – translates to about three single-family units – about six multifamily units –  
23 which probably wouldn't happen because I don't remember building a six-unit high rise –  
24 and about a thousand square feet of office. And alternatives –

25  
26 Council President Praisner,  
27 Is there any exception to accepting the staff recommendation on this issue? Hearing  
28 none, let's move on.

29  
30 Glenn Orlin,  
31 Okay. Next issue –

32  
33 Councilmember Floreen,  
34 Madame President?

35  
36 Council President Praisner,  
37 Yes?

38  
39 Councilmember Floreen,  
40 While we're on this issue of de minimis, I really don't want to take the Council through  
41 all the argumentation or the debate we had last year about Affordable Housing. I don't  
42 know if there's – I would like to advance a proposal that housing projects that have 30%  
43 or more affordable units in them are exempted from the PAMR Test. You will recall,  
44 historically, we've had a special ceiling allocation for Affordable Housing projects. That  
45 was in former AGP. I'm not sure how long it was in there, but it was in there for some  
46 amount of years.

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Council President Praisner,  
With modifications.

Councilmember Floreen,  
Yes, absolutely true. This is over and above the standard expectation of any project. And I am very concerned that we make it possible to get these projects advanced. Perhaps there's a point of view here that we should only do rehabilitation and retention of existing housing, and I'm all for that. But we've always had an MPDU Initiative. And we've always tried – to a certain degree at least – to make it possible for these kinds of projects to advance across the County. I'm not sure there are any in the pipeline. I think we determined that Lot 31 was actually –

Dan Hardy,  
Twenty-five percent.

Councilmember Floreen,  
-- 25%. In many ways – it doesn't matter. But the point is that this would be an over-the-top kind of Affordable Housing project in any event that would be more housing that's affordable to the County worker than we have seen largely to date. And if there's any way that we can encourage those projects, I think this would be the time to say we'd like to try. Whether it's financially feasible is a whole other question; but if we don't get started, we're not going to get there. So I would propose an exemption to the PAMR Test that's been adopted for Affordable Housing projects that include 30% or more affordable units in them.

Council President Praisner,  
Okay. A motion's been made to exempt from the PAMR Test any Affordable Housing development that has 30% or more affordable units. Is there a second?

Councilmember Ervin,  
Second.

Council President Praisner,  
Okay. It's been moved and seconded. I see no other lights, so let's take a vote on that item. All in favor of the motion? [Show of hands] Councilmembers Ervin and Floreen. Those opposed? Councilmembers Andrews, Berliner, Praisner, Trachtenberg, and Elrich. Abstaining? Councilmember Knapp.

Councilmember Floreen,  
And that being the case, I will not offer the other attempts at narrowing this that I tried last week in the Education Test.

Council President Praisner,

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1 Okay. Let's move on to the next item, which is the Alternative Review Procedure for  
2 Metro Station Policy Areas. As is noted in the packet on the top of page 4, the  
3 Committee unanimously recommended allowing the Alternative Review Procedure for  
4 Metro Station Policy Areas to be an alternative to both PAMR and LATR. And that was  
5 supported by the Planning Board and Council staff. I'm just going to keep going unless  
6 there are motions other than the Committee's, and assume the Committee  
7 recommendation stands. The next item relates to Impact Tax – probably should defer  
8 that one until we discuss –

9  
10 Glenn Orlin,  
11 Well, not really because this is a condition as part of the Alternative Review Procedure.

12  
13 Council President Praisner,  
14 You want to deal with this one now? Okay. All right. As part of the Alternative Review  
15 Procedure, as folks will know, the Metro Station Policy Areas Transportation Impact Tax  
16 was supposed to be double the regular Impact Tax. The majority of the Committee  
17 recommended changing the ARP – the Alternative Review Procedure – for Metro  
18 Station policy areas so that the required Transportation Impact Tax payment would be  
19 equal to the General District rate rather than double the Metro Station policy area rate.  
20 And Councilmember Floreen did not have a recommendation on this matter. The next  
21 item –

22  
23 Council Vice President Knapp,  
24 Madame President?

25  
26 Council President Praisner,  
27 Yes?

28  
29 Council Vice President Knapp,  
30 Practically – once we get past percentages – what does that mean in real numbers?

31  
32 Glenn Orlin,  
33 It means it's effectively the requirements for going through that alternative procedure  
34 are the same as what they are now. Right now –

35  
36 Council Vice President Knapp,  
37 So there's no incentive or disincentive? You do it one way; you do it the other – there's  
38 no reason –

39  
40 Council President Praisner,  
41 Well, you haven't changed the – you're not increasing the distance – creating more  
42 distance.

43  
44 Glenn Orlin,  
45 Currently that procedure requires a 50% trip reduction – not mitigation -- reduction,  
46 which is much tougher. It requires adjoining the TMD; it requires doing an annual



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1 survey; and it requires paying double the Impact Tax. Currently, the Impact Tax in Metro  
2 Station policy areas is pegged at half what the General District is.

3  
4 Council Vice President Knapp,  
5 Right.

6  
7 Glenn Orlin,  
8 So effectively it requires paying a full – as if you were in the General District. The  
9 reason why this is here is because the MFP Committee later today, you'll see, has  
10 recommended that the Metro Station policy area rate for the Impact Tax – the  
11 Transportation Impact Tax – not be pegged at 50%, but be pegged at 75% of the  
12 General District rate. If that passed and this were left alone, then the Alternative Review  
13 Procedure -- you'd have to pay essentially one and a half times what the General  
14 District rate was. And neither – actually both MFP and PHED looked at this – neither  
15 Committee -- all five of you didn't want to do that. And so the suggestion made by  
16 Planning staff was, "Why don't you just set it at the General District rate?" And everyone  
17 agreed to that. So essentially you're paying as much – you're still paying the General  
18 District rate.

19  
20 Council President Praisner,  
21 You're still paying, but you're not –

22  
23 Council Vice President Knapp,  
24 Thank you.

25  
26 Council President Praisner,  
27 Valerie, are you okay?

28  
29 Councilmember Ervin,  
30 Yeah. I did have a question. This is very confusing to me. So if we kept things the way  
31 they are now, what Glenn – he just described that – if we kept everything the way it is  
32 right now, what would that look like? It would be 50%? The rate is 50%.

33  
34 Glenn Orlin,  
35 Right, yes.

36  
37 Councilmember Ervin,  
38 Right now.

39  
40 Glenn Orlin,  
41 In the Metro Station area, you pay 50% of what – this is again a discussion of this  
42 afternoon. For the Transportation Impact – I'm assuming this afternoon – Transportation  
43 Impact Tax is set at half of the General District rate. The proposal by the MFP  
44 Committee is to make the Metro Station Impact Tax rate be 75% of what the General  
45 District rate is. If that happens, then the Alternative Review Procedure would require

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1 one and a half times – 75% twice – one and a half times what the General District is.  
2 And that was more than what either Committee wanted to have paid.

3  
4 Councilmember Ervin,  
5 Is there some reason behind why we would do that?

6  
7 Council President Praisner,  
8 Well, we didn't want to set it at 150%. So this is the way of making sure that you're not  
9 going above the General District rate. I guess if one doesn't increase the General  
10 District rate this afternoon, we might want to come back and revisit this issue. But this  
11 point was to make sure that we were not increasing dramatically the requirement  
12 beyond what would have been half before – now it would have been more -- 150%.

13  
14 Royce Hanson, 443  
15 Well, there is some reason to want people to use the Alternative Review Procedure  
16 because it requires the trip reduction element in it, which makes things work better.

17  
18 Councilmember Ervin,  
19 Right.

20  
21 Royce Hanson,  
22 And if you made the tax payment higher than the General District rate, you're creating a  
23 disincentive to go in that direction.

24  
25 Councilmember Ervin,  
26 Oh, absolutely. I guess I should be grateful – right? I should be happy about this.

27  
28 Council President Praisner,  
29 Yeah. This is a good thing. Okay. All right. The next comment – oh, I'm sorry – Duchy.  
30 Councilmember Trachtenbeg.

31  
32 Councilmember Trachtenberg,  
33 Thank you, Council President Praisner. I just wanted to state at this point that perhaps it  
34 might be wise to defer a final decision on this until we actually do have the conversation  
35 this afternoon. It might help put things into context for some that are still not sure what  
36 this actually does.

37  
38 Glenn Orlin,  
39 Okay. The only thing I would respond, as Ms. Praisner says, if the Committee or the  
40 Council this afternoon decides to set it at 50%, it'll end up in the same place.

41  
42 Council President Praisner,  
43 We'll come back if –

44  
45 Councilmember Trachtenberg,

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1 Yeah, okay. All right. I understand that, but I thought I wanted to give my colleagues an  
2 opportunity to put it into context.

3  
4 Council President Praisner,  
5 You're absolutely right. Okay. Adding Transit Capacity – this looks like a staff comment  
6 relative to the size of buses and the relationship of the bus?

7  
8 Glenn Orlin,  
9 No, it's just a clarification really. The language in the Resolution says that one of the  
10 ways of meeting the trip mitigation goal is to buy a full-size hybrid ride-on bus. All we  
11 want to make sure of is that the bus that's being bought is an addition to the fleet and  
12 not a replacement bus, because it's -- I think it's what the staff and the Board had  
13 intended, but it wasn't clear in the Resolution. But they may want to make --

14  
15 Council President Praisner,  
16 Right. Make it so. Unless anyone objects, that's our intent as well. Edgar, a comment  
17 from a bus perspective?

18  
19 Edgar Gonzalez,  
20 Yes. We agree with the statement that it should be an addition to the fleet. I just want to  
21 point out to the Council the implication of the numbers that are being tossed here. A full-  
22 sized hybrid electric bus is half a million dollars. And operating that bus for twelve years  
23 at -- assuming at least eight hours of operation -- in today's dollars will cost about two  
24 and a half million dollars. So the requirement that you are making is a \$3 million  
25 payment to mitigate thirty trips. I just want you to know that. Of course, nice to have if  
26 we had the capacity to maintain those buses.

27  
28 Glenn Orlin,  
29 Okay, the next item?

30  
31 Council President Praisner,  
32 Yes.

33  
34 Glenn Orlin,  
35 This, again -- something's in the Resolution I just want to draw your attention to. You  
36 might have a short discussion about it. What it says is that, "The Planning Board may  
37 accept a payment of a fee instead of the facility implementation under PAMR if the  
38 Applicant shows a good-faith effort to implement the facility and the Board finds that a  
39 desirable improvement cannot feasibly be implemented by the private sector, but the  
40 same improvement or equivalent alternative can be implemented by a public agency at  
41 a later time." This is sort of a pay-and-go kind of thing.

42  
43 Council President Praisner,  
44 And I don't like the language.

45  
46 Glenn Orlin,

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1 Well, but it needs to have – well, my recommendation is there be some flexibility  
2 because stuff happens. You could have a condition of a subdivision approval.  
3 Something then changes between the time the subdivision's approved and the  
4 improvement actually comes forward. What do you do? So you do need to have some  
5 discussion about it. At the very least, these situations ought to be documented and  
6 reported back to the Council to see how much of a problem it is.

7  
8 Council President Praisner,

9 Well, definitely documented and reported. But what I have a problem with is "at a later  
10 time" is awfully loose and could be -- twenty years from now is "at a later time."

11  
12 Dan Hardy,

13 I think a good example might be the bus we were talking about -- that right now if we did  
14 have an applicant that wanted to provide bus service but there was no place to garage  
15 them, but at a later time the County would have the space to garage them, that would  
16 be maybe an example where this payment in lieu could be applied.

17  
18 Council President Praisner,

19 Well, maybe we need to look at some kind of a time period test it seems to me –

20  
21 Dan Hardy,

22 Mike's suggesting four years because it's a four-year test.

23  
24 Council President Praisner,

25 I have two lights. Councilmember Floreen.

26  
27 Councilmember Floreen,

28 Thank you. Yeah, I really think we need to retain this language. I am increasingly  
29 troubled by short-term solutions instead of long-term resolution. We had this little chat  
30 the other day about BRAC, and the idea that well, we'd settle – and maybe we're going  
31 to end up there. But I think it's a waste of public money and private money or  
32 government money – anybody's money – if our solution today is to add turn lanes, or  
33 something of that nature, that gets you over the hump technically. But what you really  
34 want to do is build the intersection – like at Cedar Lane and 355. And so to suggest that,  
35 "Well, we'd rather get something that we're going to rip up in a couple of years and do  
36 all over again," is just a waste of everybody's time and money. So I would at least like to  
37 make sure this continues to be an option toward solutions. And I'm just using that as an  
38 example. But it's things like that, I think, are very shortsighted and foolish.

39  
40 Royce Hanson,

41 I hope you'll leave this in because it is a safety valve for some operations.

42  
43 Council President Praisner,

44 Yeah. Well, but -- but it's a safety valve if you've identified what it is as the alternative  
45 that you are not ready to do that you are postponing, not just –

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1 Royce Hanson,  
2 That's right.

3  
4 Council President Praisner,  
5 So I think some kind of an identification and some kind of a timeframe.

6  
7 Royce Hanson,  
8 Let me give you an illustration of –

9  
10 Council President Praisner,  
11 Well, I have Vice President Knapp too; so go ahead.

12  
13 Council Vice President Knapp,  
14 I would just –

15  
16 Council President Praisner,  
17 Why don't you let him jump in, and then you can comment on both.

18  
19 Council Vice President Knapp,  
20 I would just agree. I've heard of enough circumstances where we've made a  
21 modification, only to follow-up behind it to tear that modification up for the next  
22 modification. And that just doesn't seem to be particularly good planning from my  
23 perspective. And so to the extent that if we put a four-year time limit – whatever the right  
24 number time limit is to put out there so that it's not just open ended, I think that makes  
25 sense. But there are just too many examples I've heard of – especially as new  
26 development's occurring, that we do it because that's what that project's supposed to  
27 do, and the next project has to do it differently. It just doesn't make sense to me.

28  
29 Royce Hanson,  
30 No, I'm not sure that a hard time limit is good; but something that could be done in the  
31 same general period that will serve the development. For instance, if we have a project  
32 come in and it's an area where we know that there is in the long-range program for  
33 instance – a grade-separated intersection. And the approach that the Board might take  
34 on this is to say, "All right. If that grade-separated intersection gets programmed within a  
35 particular period of time, we would rather have you contribute your share of the traffic  
36 that you will generate – that'll flow through that intersection – rather than have you make  
37 an immediate turn lane improvement for the same amount of money that's going to get  
38 torn up."

39  
40 Council President Praisner,  
41 Yeah. That's Nancy's point.

42  
43 Royce Hanson,  
44 Yeah.

45  
46 Council President Praisner,

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1 And I think we agree, but you've got some eye on a prize in that example –

2  
3 Royce Hanson,  
4 Right, exactly.

5  
6 Council President Praisner,  
7 And you have some sense of timing. It does require recordkeeping of revenue perhaps  
8 dedicated towards it or something, which is a tracking issue that we have sometimes  
9 had a challenge about. But if you could work on some language that speaks to these  
10 kinds of issues and then circulate it before next Tuesday, I think councilmembers would  
11 feel –

12  
13 Council Vice President Knapp,  
14 Actually, I think a linking to the project actually may make the most sense as opposed to  
15 even putting a time limit just for the sake of a time limit. Because that way, you're at  
16 least – you're addressing the issue as opposed to just having it open-ended. So that  
17 may work.

18 Councilmember Berliner,  
19 And any requirements.

20  
21 Council President Praisner,  
22 Everybody okay with our getting some language about that? Okay, just try to get it to us  
23 in some timeframe. Edgar?

24  
25 Royce Hanson,  
26 By Thursday.

27  
28 Edgar Gonzalez,  
29 On that issue since I came to this country, I have believed in checks and balances. So  
30 we recommend, from the Executive perspective, that this option be exercised with the  
31 approval of the County Executive or the concurrence of the Executive Branch; and let  
32 me tell you why. In this specific case, we would be in the same boat; we would be totally  
33 in agreement. But the way the language is written or addressed in the Resolution, is that  
34 sometimes a private developer cannot implement a project because for one reason or  
35 another. And according to this language, it may be very difficult for that individual to do  
36 it. But let me tell you if it is difficult for that individual, it's going to be a lot more difficult  
37 for the public sector to implement because we have to go through a lot more hoops to  
38 jump. It's going to take us longer. It's going to cost you more. It is going to be impossible  
39 to do.

40  
41 Council President Praisner,  
42 Well, I understand that; but let's look at that issue of whether it's with the approval of or  
43 with review or comment by the Executive. But let's –

44  
45 Royce Hanson,  
46 It might be before we do it, we might have to have either SHA or WMATA

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Council President Praisner,  
It may be –

Karl Moritz,  
The Resolution does contain language on Circle 8 that says –

Council President Praisner,  
Circle 8.

Karl Moritz,  
-- the Planning Board must consider the recommendations of the County Executive.

Council President Praisner,  
Okay. All right. Let's move on to Local Area Transportation Review. The issue that was pending, that we had not dealt with because we were waiting for Policy Area Review, is the Committee's recommendation to tighten the standards, ever so slightly, in a series for Local Area Review – not for Policy Area Review – for Local Area Review in a variety of areas. I won't go into them; they're listed on page 5. The Executive and Council staff supported the recommendation; Councilmember Floreen and the Planning Board did not. I think we had a relatively exhaustive conversation about it yesterday – last week, I'm sorry.

Council Vice President Knapp,  
Seems like yesterday.

Council President Praisner,  
They all run together. Every Tuesday feels like yesterday. The Committee's recommendation is before us then absent a – oh, Councilmember Knapp.

Council Vice President Knapp,  
Thank you, Madame President. I just had question for the Planning Board Chair as to the practical effect of this. How does the calculation of Critical Lane Volume play into your Master Plan development? How does that – in density and Master Plan development. What happens there?

Dan Hardy,  
Typically in Master Plans we look at forecast Critical Lane Volume and get a sense for what type of improvements might be needed to make a certain standard. It's also possible that looking at that, the Master Plan could provide some guiding language. Silver Spring/Takoma Park is an example where the Master Plan says should the improvements that might be needed to meet a numeric standard have other adverse consequences on environmental constraints or community compatibility, that at the time an application comes in or the County considers a CIP, you would not build something just to meet the numeric standard.

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1 Council Vice President Knapp,

2 So the issue that has been raised -- and I have it more broadly -- is, we have a particular  
3 area that I know wants to move forward that I think people are generally supportive of,  
4 which is looking at the R&D Village policy area. And there's a project that may come  
5 forward that there's a concern that by raising the CLV, that makes it difficult for the  
6 densities to be looked at the right way in the creation of that Master Plan. I don't even  
7 purport to understand necessarily how all the pieces would interact. My other concern  
8 though is more broadly, as it looks kind of up and down a transit corridor where I  
9 presume we were going to want to create more density, that it could potentially hinder  
10 projects that are exactly the types of things we want to do from actually feeling they can  
11 proceed because of whatever calculation -- either be bound by certain calculations as  
12 you do the Master Plan and so the densities that would make them the right kinds of  
13 projects aren't going to be the densities you ultimately end up at. And so I just wanted to  
14 kind of put that out there as --

15  
16  
17  
18 Karl Moritz,

19 Let me also emphasize something that Dan said, but just more generally. The Growth  
20 Policy is subservient to master plans. And he gave an example of how that's true in Silver  
21 Spring. But just more generally, there is a clause in the Growth Policy Resolution that  
22 says to any extent that the Master Plan has provisions that are in conflict, the Master  
23 Plan is what governs. And so, for example, you adopt a Growth Policy today; and the  
24 Gaithersburg Plan comes through. You are not bound necessarily by what the Growth  
25 Policy Resolution says in your work on the Master Plan in Gaithersburg.

26  
27 Council Vice President Knapp,  
28 Okay.

29  
30 Karl Moritz,  
31 You'd still have that flexibility.

32  
33 Council Vice President Knapp,  
34 Okay.

35  
36 Council President Praisner,  
37 Glenn wanted to comment if you're through.

38  
39 Glenn Orlin,  
40 I'd like to talk about this directly because this issue now has come up with several of the  
41 councilmembers about Hopkins. When a Master Plan is done in an area, the first thing  
42 we look at in terms of transportation is whether the transportation system that is planned  
43 for the area is in balance with the total land use that's proposed in the plan. And there  
44 are three things you look at there. You look at the total amount of development at build  
45 out. What is the transportation system at build out? And then, thirdly, what is the  
46 balance point? What is the measure that you're going to use for what's tolerable or what



1 isn't tolerable at build out? That last thing, that standard, is not necessarily the standard  
2 which is currently in the Growth Policy. I'll give you a good example, is Germantown. In  
3 Germantown, is Master Plan for a lot of -- the last time it was done in 1990, it was  
4 anticipating a lot of development. It was anticipating a lot of road improvements and the  
5 Corridor Cities Transitway. And the decision was to have the balance point -- in those  
6 terms we were just using with letter grades, policy review -- as the borderline between  
7 that Level of Service "C" and "D." The Growth Policy at the time had a standard of "C,"  
8 which was a tougher standard than what the build out Master Plan level of service was.  
9 And, in fact, the Master Plan goes on to say that at whatever point in the future the  
10 Corridor Cities Transitway -- which provides a considerable upgrade in terms of the  
11 quality and quantity of transit service -- once that facility became evident in the Growth  
12 Policy (i.e., counted within whether it's four years or five years), at that point not only  
13 would it be appropriate for the Growth Policy to take that into account in terms of  
14 measuring the transit (in today's terms "mobility"), and the effect on arterial mobility in  
15 terms of taking cars off the road to do that. But thirdly, to even change the standard  
16 itself. Because at that point, the transit becomes a real thing within the four-year  
17 timeframe; and it's appropriate to adopt a looser, frankly, standard for congestion. And I  
18 would think that would be -- the same thing's true in the R&D Village. When the  
19 Gaithersburg Plan -- West Plan -- is it Gaithersburg West Plan we're calling it now?

20  
21 Council Vice President Knapp,  
22 Not yet.

23  
24 Glenn Orlin,  
25 -- whatever it is -- the west side of 270 part of the Gaithersburg Plan is redone, the  
26 Planning staff and the Board will be working on is -- one of the things -- is, "What should  
27 that balance point be?"

28  
29 Council Vice President Knapp,  
30 Right.

31  
32 Glenn Orlin,  
33 And it should not -- in my mind, speaking for myself -- should not be as tight as either  
34 what is being proposed right now --

35  
36 Council President Praisner,  
37 Or what exists.

38  
39 Glenn Orlin,  
40 -- or what even exists now because there will be, I will presume, a Corridor Cities  
41 Transitway included in that Master Plan.

42  
43 Council Vice President Knapp,  
44 Right.

45  
46 Glenn Orlin,

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1 So that makes a difference in terms of several items that's been brought up. One is  
2 there's a worry about, "Is there enough density in the future to justify the Corridor Cities  
3 Transitway?" because the Feds look at that. Well, the Feds are looking at forecast of  
4 traffic in 2030 – which is the Master Plan time. So if the land use is in that plan, then  
5 that will support it. It would also support any development that would happen in the  
6 amount of time it would take before the Corridor Cities Transitway is within four years.  
7 However, if you are talking about something that might be approved or before the  
8 Planning Board within the next year or two, I think it's fairly safe to say that the Corridor  
9 Cities Transitway will not be programmed within four years within the next year or two.  
10 In that respect, the Local Area Review Test would be these tighter standards – for that  
11 period. So that's the long way of explaining it, but I think it's important to understand the  
12 difference between the standard at build out and at master plans versus the standard in  
13 the Growth Policy – which is temporary.

14  
15  
16  
17  
18 Council Vice President Knapp,  
19 Well, and that's helpful. I may have some language later because actually my concern  
20 is broader than just the Hopkins parcel because we have a number of master plans that  
21 are going along that alignment –

22  
23 Glenn Orlin,  
24 It's an example of one; it's one example.

25  
26 Council Vice President Knapp,  
27 -- that are going to have the same issue that you're going to want to make sure gets  
28 addressed.

29  
30 Glenn Orlin,  
31 Right.

32  
33 Council Vice President Knapp,  
34 I appreciate the explanation. I think that may be sufficient, but I just want to reserve the  
35 right because it wouldn't necessarily have to go at this point.

36  
37 Council President Praisner,  
38 No.

39  
40 Council Vice President Knapp,  
41 It could be part of the language at the end.

42  
43 Council President Praisner,  
44 Right. Councilmember Berliner.

45  
46 Councilmember Berliner,

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1 And I know it seems like yesterday to everybody else, but it seems like last week to me.  
2 Refresh my memory, Mr. Chairman, as to why you feel that the existing standard is  
3 sufficient.

4  
5 Royce Hanson,  
6 Well, basically -- first of all, we don't see a need to change them. Secondly, to tighten  
7 those standards we thought there were a couple of reasons why it wasn't particularly a  
8 good idea. One, it tends to place a greater emphasis on intersection improvements than  
9 on non-automobile mitigation. And as it does that, the second thing is it increases, by  
10 some degree, the amount of impervious surface that we're building.

11  
12 Council President Praisner,  
13 Okay. Councilmember Floreen.

14  
15 Councilmember Floreen,  
16 Thank you. Just a quick question. Mike's point about dealing with the standards for here  
17 and there in master plan areas as we do a master plan, where there's some consensus  
18 that we want to go in whatever direction is advocated in the master plan obviously --  
19 Glenn, your proposal would be then that is the point in time at which one revisits these  
20 Growth Policy standards?

21  
22 Glenn Orlin,  
23 Right. That's correct.

24  
25 Councilmember Floreen,  
26 Yeah. Yeah. That's all.

27  
28 Council President Praisner,  
29 Okay. Absent any comments then, we will move on with the Committee's  
30 recommendations in place. Number (6) -- page 6 is "PAMR Test and Non-Auto  
31 Mitigation Issues." And there are a series on page 6 of recommendations as far as  
32 modifications to the language that is associated with the PAMR -- the Section TP-3. Let  
33 me also say that's a technical term for the Resolution.

34  
35 Council Vice President Knapp,  
36 What was that? What was the technical term?

37  
38 Council President Praisner,  
39 TP-3 -- in the Resolution, it's Section TP-3 where this language would -- and also  
40 Section TL-1, as I understand it -- which is the part starting at, "To support creating  
41 facilities that encourage using transit...." Let me also make the comment back to what  
42 we said we wanted to see more discussion of as part of the continuing review or the  
43 issues of the kinds of things that we give credit for. There was some concern raised with  
44 an example that I gave of changing the light bulbs at traffic signals that were not even,  
45 because the Department of Transportation was using a cycle and a sequence that had  
46 those traffic signals done somewhere else in the County, but nowhere near where the

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1 congestion occurred because of the development -- some concern about how much that  
2 kind of item is used as a credit or a trip mitigation. And the Committee was concerned  
3 about wanting to have further conversation on the issues of trip mitigation standards  
4 and trip mitigations and that discussion; although incorporated within the document is  
5 one that we will continue to have further discussion about. Okay? That finishes -- and  
6 there's comments about the "To Do List." If folks have specific language in the  
7 Resolution that folks -- I thought we had an item to look at that that would strengthen  
8 that -- look at the standards used for trip mitigation that --

9  
10 Councilmember Floreen,  
11 That's in the To Do List.

12  
13 Council President Praisner,  
14 Right. In the To Do List there would be that item.

15  
16 Councilmember Trachtenberg,  
17 That's right.

18  
19 Council President Praisner,  
20 Mr. Hawthorne -- and then I'm going to call on Councilmember Elrich.

21  
22 Rick Hawthorne,  
23 Ms. Praisner, I just wanted to clarify that one concern is that right now the language in  
24 TL-1 about Local Area Review on this issue and in TP-3 are completely different.

25  
26 Council President Praisner,  
27 Completely different from what's here, or you mean completely different from each  
28 other?

29  
30 Rick Hawthorne,  
31 From each other. Yes, ma'am.

32  
33 Council President Praisner,  
34 Okay.

35  
36 Rick Hawthorne,  
37 And that was our fault. When we've sent the draft resolution up, actually --

38  
39 Council President Praisner,  
40 I need Glenn's attention on this issue, please. All right.

41  
42 Rick Hawthorne,  
43 Glenn, I was just explaining about how the Local Area Review language on this topic  
44 and the Policy Area Review language are different. And we just put a lot of our thinking  
45 into the Policy Area Review. What we are suggesting -- and I would think the Board  
46 would hope you would adopt -- is this underlined language which basically --

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Royce Hanson,  
All of it.

Council President Praisner,  
On page 6.

Rick Hawthorne,  
I'm sorry?

Council President Praisner,  
On page 6, we're talking about trip reduction by providing non-auto facilities; and we're talking about all three pieces, as well as the Work Plan. The first three paragraphs underlined are the Planning Board staff's changes to the two sections – the section under PAMR, as it relates to trip mitigation and the section under LATR (Local Area Review) that relates to trip mitigation. They're proposing these changes to the language. And they're also, as we had requested, planning a Work Plan item – which is the last paragraph – that also relates to this issue. And all this language would appear in the Resolution as substitutes for the language that's there now which is inconsistent between the two. Correct?

Rick Hawthorne,  
And it also gets you out of the business of actually adopting the individual actions in the Resolution, because we do want to go back –

Council President Praisner,  
And look at those issues.

Rick Hawthorne,  
-- and change some. And we really – none of us are prepared to talk about the details. Basically, you're tasking the Board with getting into this and doing it right. And I think this is traditionally the way the Council has always done it.

Council President Praisner,  
And we've asked for it with a June 1st deadline for next year of this to be done.

Rick Hawthorne,  
And I feel sure they'll do something very soon. We'll get something to you.

Council President Praisner,  
Okay. I have a couple of lights, so we'll start with Councilmember Elrich.

Councilmember Elrich,  
Yeah. I hope you can get this sooner than later because I think you already have a good sense of which things actually mitigate trips and which things don't mitigate trips. I feel that the list you have for the goals you're trying to achieve – encourage using transit,

1 walking, and bicycling – and those things are things that ought to be part of your  
2 sustainable design -- that those ought to be incorporated into the projects not because  
3 they're trip mitigation but because they're fundamental elements of what urban design  
4 should be if our urban communities are going to work. And I want trip mitigation to be  
5 trip mitigation. And the problem that everybody's got to realize is if an intersection fails  
6 and you give credit for trip mitigation for things that don't reduce the trips, the  
7 intersection continues to fail. Now that's bad when one project does it; but when you  
8 have multiple projects – and it's easy to imagine in any of our corridors – you do  
9 multiple projects that all could fail the intersection; but they're given credit for non-  
10 mitigating mitigation. Then the cumulative effect isn't just the 50 trips that maybe one  
11 project goes over, but it's the accumulation of all those trips. And so I think it's critical  
12 that mitigation is mitigation – and design is design. And let's not mix those two.

13  
14 Council President Praisner,

15 And we will have further conversation on this issue because of the concerns raised. And  
16 that's why we're asking folks to come back on an accelerated time frame to have this  
17 discussion. We've given a couple of examples and a couple of reasons why this is an  
18 issue; but I really don't want to spend too much time on debating the elements there are  
19 because we're going to have a lot of opportunity for that later. Councilmember Berliner.

20  
21 Councilmember Berliner,

22 Very quickly, Council President, I just wanted to ask the Chairman a somewhat  
23 unrelated question; but it goes back to mitigation, and it relates to parking – as to  
24 whether or not you perceive a proposal that would in fact reduce parking to be  
25 mitigation? And if somebody comes in under either PAMR or LATR with a state-of-the-  
26 art proposition with respect to parking, is that something that in your judgment is  
27 mitigation eligible?

28  
29 Royce Hanson,

30 It could be mitigation. We run into some problems where we may need to deal with  
31 waiver issues under existing conditions; but clearly in the parking study, this is one of  
32 the major ways in which trips can be reduced. Even if we set a maximum for parking in  
33 an area, under particular circumstances it may be possible to reduce that parking  
34 requirement further in order to mitigate trips. Part of it depends also in areas – and part  
35 of this is a master planning issue where I would differ a little bit, I think, with Mr. Elrich's  
36 -- is that sometimes design issues do mitigate trips. And we can ask people to do more  
37 design in some cases, but I think the general point that he's making is okay. The way  
38 that we want to look at this is, I think, is in our master plans particularly where we may  
39 want a public parking facility or garage and use the authority that the County has and  
40 the experience that it has in making it possible for people to build without adding the  
41 cost of a lot of parking internal to the project, but being part of a parking district in some  
42 cases.

43  
44 Council President Praisner,

45 Okay. Vice President Knapp.

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1 Council Vice President Knapp,  
2 Thank you, Madame President. Just two questions, and this gets back to trying to figure  
3 out how PAMR and LATR do or don't interrelate with each other; and I was kind of  
4 struck by this. I read through that the trip reduction elements of PAMR will – PAMR  
5 access to mitigate trips will be using LATR guidelines, and I just was kind of curious. So  
6 if there is an intersection that was a failing intersection and there was a community that  
7 required partial mitigation under what we adopted earlier, could a project be -- that could  
8 satisfy both -- the intersection improvement?  
9

10 Dan Hardy,  
11 No, because you can't use an intersection improvement for PAMR; however, the  
12 example in here was –  
13

14 Council Vice President Knapp,  
15 Because we don't allow it or because it can't happen?  
16  
17

18 Dan Hardy,  
19 Because we don't allow it. It's part of the policy that -- it is: reduce the trips; it is  
20 purchase transit capacity; it is build roadway link capacity; and the fourth one is – help  
21 me.  
22

23 Rick Hawthorne,  
24 Use a bus?  
25

26 Dan Hardy,  
27 I said transit. Oh, yeah, that's actually it. The fourth one is the one I was going to get to  
28 – which is that this LATR non-auto facilities – which has been critiqued, but that would  
29 be an example of for instance a small applicant that would come in – and if they had a  
30 LATR and a policy area issue -- Mr. Elrich just left – one key is it's not just design of  
31 your site. It's offsite improvements – it's doing something offsite that could be used to  
32 satisfy both Policy Area Review and Local Area Review. Also the trip mitigation -- if you  
33 volunteer to mitigate your trips, that would be a way to satisfy both –  
34

35 Rick Hawthorne,  
36 Reduce.  
37

38 Dan Hardy,  
39 Reduce – thank you – would be both LATR and Policy Area Review.  
40

41 Council Vice President Knapp,  
42 So if I reduce the trips, then I might not have to make the intersection improvement?  
43

44 Dan Hardy,  
45 That's correct.  
46

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1 Council Vice President Knapp,  
2 So the intersection improvement itself would not necessarily qualify under each; but  
3 other elements that I could do could satisfy or eliminate the need to do the intersection  
4 improvement.

5  
6 Dan Hardy,  
7 Right, mm-hmm.

8  
9 Royce Hanson,  
10 One of the theories in the Alternative Review Procedure for instance – if you're doing  
11 50% mitigation, and a reason that substitutes for both PAMR and for LATR is you're  
12 cutting down on the amount of stuff that you generate.

13  
14 Council Vice President Knapp,  
15 Okay. And I have, Madame President, just a quick question for you.

16  
17  
18 Council President Praisner,  
19 Yes.

20  
21 Council Vice President Knapp,  
22 Is your intent to take an ultimate straw vote on the elements of the Growth Policy before  
23 we go to lunch, or to –

24  
25 Council President Praisner,  
26 Yes.

27  
28 Council Vice President Knapp,  
29 Okay. Well, I would respectfully request just given that that – that now I'm starting to –  
30 now that we have the pieces to try and – I'd like to at least construe some time in the  
31 afternoon to kind of knit the pieces together and make sure that I understand now that  
32 we have everything in front of us, to know what it is that we're ultimately raising our  
33 hand for on. And so to the extent that we come back and look at the final struggle for  
34 the whole package, till some time this afternoon just so I can make sure I know what the  
35 pieces link together.

36  
37 Council President Praisner,  
38 Okay.

39  
40 Council Vice President Knapp,  
41 Not for further speech – but just to make sure I know that -- like this – which impacts  
42 which other pieces.

43  
44 Council President Praisner,  
45 All right. Well, what I was hoping to do is to finish the issues in the "Future Section" –  
46 which has been listed as the last item.



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Council Vice President Knapp,  
Right.

Council President Praisner,  
I actually want to deal with them right after the "Effective Date of the Adequacy Test."  
We're actually talking about them now to some extent, and we have been talking about  
it. We've done "Policy Area Review." We've done "Local Area Review."  
We've done "Schools." We've done the pieces associated with "Schools." We have an  
issue – well, we actually have "Public School Adequacy Test" follow-up, just to make  
sure; and then we have the "Effective Date" question. I wanted to make sure there were  
any other issues to be addressed, and then I was planning on taking a straw vote. We  
can – yes, Mr. Faden?

Michael Faden,  
Just to be sure for our purposes – so the consensus is to make the Text Amendment in  
stone –

Council President Praisner,  
That's what we were talking about.

Michael Faden,  
Okay.

Council President Praisner,  
That's what we're in the process of talking about.

Michael Faden,  
Okay. You haven't decided that yet.

Council President Praisner,  
No.

Michael Faden,  
Okay.

Council President Praisner,  
That's what we're in the process of talking about, but the Council Vice President's asked  
the order and sequence. My sense was to take a straw vote on those, and then to deal  
this afternoon with the revenue measures.

Council Vice President Knapp,

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1 If it would be possible just to do potentially the policy – we could do a straw vote on both  
2 when we complete the tax piece just so – again, to see how the pieces interact and just  
3 have one vote at the end.

4  
5 Council President Praisner,  
6 That's fine. That's fine. I have no problem with doing another – what's the matter, Mr.  
7 Orlin?

8  
9 Glenn Orlin,  
10 Well, with all of that –

11  
12 Council Vice President Knapp,  
13 What's wrong with that?

14  
15 Council President Praisner,  
16 He has this strained, pained look.

17  
18 Glenn Orlin,  
19 Well, sorry. What can I tell you? Again, on the order -- we thought we were going to do  
20 the "To Do List" at the very end after the taxes because there's a lot of the "To Do List"  
21 which relate to the taxes.

22  
23 Council President Praisner,  
24 Well, we'll come back to them. But the "to do" things we've talked about, I'd like to be  
25 able to feel that folks are comfortable with them.

26  
27 Glenn Orlin,  
28 Okay.

29  
30 Council President Praisner,  
31 If they're not, we need to know that because maybe there's some work that can be done  
32 between now and this afternoon to massage the language.

33  
34 Council Vice President Knapp,  
35 And I have one other issue, Madame President –

36  
37 Council President Praisner,  
38 Okay.

39  
40 Council Vice President Knapp,  
41 -- that would fit in the afternoon that we may need to look at. I raised the issue last week  
42 as it related to the impact on any of our policy changes on the Plan of Compliance in  
43 Clarksburg or pending activities up there – or not the Plan of Compliance, but the Site  
44 Plan modifications that are pending. And it has come to my attention that there are  
45 some things that are going to have to be refiled -- which would then presumably start  
46 their processes all over again – which would then retroactively apply our new standards

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1 to things that have already been approved but for the fact that – for a variety of reasons,  
2 much too numerous for us to go into right now. And so the question is: one, is there  
3 going to be an impact? And I think the Chairman and I talked about this earlier – there  
4 could be. And if the answer is, “Yes,” I’d like to put forward some language that would  
5 take those programs that we already know are in the process of being refiled or being  
6 modified because of the issues over the last three years – that those issues are  
7 effectively held harmless. And so I’ll put some language together.

8  
9 Council President Praisner,

10 All right. Fine. Okay. Are there any other comments on the language on page 6? If not,  
11 the public –

12  
13 Edgar Gonzalez,  
14 Mrs. Praisner?

15  
16 Council President Praisner,  
17 Yes, Edgar?

18 Edgar Gonzalez,  
19 There is concurrence from the County Executive, except that we would like to see  
20 language here that gives concurrence or a stronger sense of participation and an  
21 acceptance by the Executive Branch than just “aiding” or “consulting.” On each of these  
22 items, thoroughly in agreement; but we would like to have a voice.

23  
24 Council President Praisner,  
25 I thought there was general language to that effect somewhere.

26  
27 Edgar Gonzalez,  
28 Allow consultation and all of that – we’re talking about concurrence.

29  
30 Council President Praisner,  
31 I thought there was general language on that issue elsewhere.

32  
33 Dan Hardy,  
34 Their Growth Policy has language for approvals of development under PAMR that says  
35 we will consider the Executive’s recommendation. I think in the future study, there’s also  
36 bringing the Executive Branch into the future study.

37  
38 Edgar Gonzalez,  
39 Yeah, and we want stronger than “consider.” Well, I’d like to see –

40  
41 Royce Hanson,  
42 We do not want “concurrence” –

43  
44 Council President Praisner,  
45 I don’t either.

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1 Royce Hanson,  
2 -- because that essentially is the role of the Planning Board in approving subdivisions.

3  
4 Edgar Gonzalez,  
5 Road Code.

6  
7 Council President Praisner,  
8 Well, Road Code is a problem for both your houses, Edgar.

9  
10 Edgar Gonzalez,  
11 So is this. Where do you think people complain when there is congestion?

12  
13 Council President Praisner,  
14 Yes, all over the place. "Public Schools Adequacy Test Follow-up" – Mr. Faden or Dr.  
15 Orlin, which one of you?

16  
17  
18 Michael Faden,  
19 Just to point out on the issue that Mr. Gonzalez just raised, if you look at Circle 9 – the  
20 first full paragraph after the bullet – second sentence basically says – and this is in  
21 mitigation under PAMR – second sentence basically says, "The nature, design, scale of  
22 any additional facility or program must receive prior approval from any government  
23 agency that would construct or maintain the facility or program, and the applicant of the  
24 public agency must execute a Public Works Agreement." concurrence. I think that in  
25 practice gives the Executive Branch -- assuming they are the agency that would do  
26 these things -- a great deal of concurrence.

27  
28 Council President Praisner,  
29 Okay. Councilmember Ervin.

30  
31 Councilmember Ervin,  
32 Are we on the Public School Adequacy Test?

33  
34 Council President Praisner,  
35 Yes – yes, ma'am.

36  
37 Councilmember Ervin,  
38 Okay. I do have a question, if this is the proper time to raise it, on the Schools Test. I  
39 would like to know how this test, as proposed, could limit development in Metro Station  
40 policy areas.

41  
42 Glenn Orlin,  
43 Okay. The current test would put the Einstein, Kennedy, and Clarksburg clusters in  
44 moratorium as of the date that you applied this test. That's the next issue – the effective  
45 date for these tests. And in terms of Metro Station policy areas – that means a part of  
46 Silver Spring CBD – the part northwest of Colesville Road and the west side – well,

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1 Glenmont for Kennedy. However, in looking at the Superintendent's request for the CIP,  
2 if the Council were to approve the capacity-adding projects in the Superintendent's  
3 request ultimately, then by next July -- when these numbers are re-ranked -- then that  
4 would not be the case anymore. The only area that would be in moratorium for schools  
5 would be Clarksburg. So effectively you'd have moratorium between now and July; after  
6 July, there would not be a moratorium.

7  
8 Royce Hanson,  
9 That's assuming that you approve those recommendations.

10  
11 Council President Praisner,  
12 Okay.

13  
14 Glenn Orlin,  
15 Correct.

16  
17  
18 Council President Praisner,  
19 Councilmember Floreen.

20  
21 Councilmember Floreen,  
22 Yeah. I have a question about the second paragraph -- about the --

23  
24 Council President Praisner,  
25 Municipalities?

26  
27 Councilmember Floreen,  
28 -- municipalities -- because the Schools Impact Tax applies in these jurisdictions, does it  
29 not?

30  
31 Glenn Orlin,  
32 Correct.

33  
34 Councilmember Floreen,  
35 So if the Schools Facilities Payment -- is that what we call it? -- does not apply, what  
36 does that mean? Does that mean then that there is no extra -- those projects proceed?

37  
38 Glenn Orlin,  
39 It goes under the rules from the City of Rockwell/City of Gaithersburg -- which actually  
40 have tougher rules in some respects than what we have.

41  
42 Michael Faden,  
43 Their own School Tests --

44  
45 Glenn Orlin,  
46 Yeah.

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1  
2 Michael Faden,  
3 -- which have their own mechanism to enforce.

4  
5 Glenn Orlin,  
6 The School Facilities Payment is a part of the Adequate Public Facilities Test; it's not a  
7 tax. And so if –

8  
9 Council President Praisner,  
10 The development wouldn't go forward based –

11  
12 Glenn Orlin,  
13 Right.

14  
15 Council President Praisner,  
16 The development would be approved based on the municipality approval, not us.

17  
18 Glenn Orlin,  
19 Right.

20  
21 Councilmember Floreen,  
22 Right, but the issue of consistency in terms of contribution – I mean what I don't know –  
23 you said that they're not subject to the payment and you're subject to their rules. Well,  
24 what I want to know is, "Are there projects that under our rules will proceed under the  
25 municipality's rules that would otherwise be subject to the Schools Facilities Payment?"

26  
27 Glenn Orlin,  
28 Karl can remind me; but I believe the School Test in Rockville and Gaithersburg is --  
29 first of all, it's on the individual school level.

30  
31 Karl Moritz,  
32 That's correct.

33  
34 Councilmember Floreen,  
35 I don't pretend to understand all this. I just would like to know what the cost is and are  
36 there – there was a challenge to different standards.

37  
38 Glenn Orlin,  
39 More likely what would happen is the development would not be approved in those two  
40 cities as opposed to the development making a payment and going forward – under our  
41 rules.

42  
43 Councilmember Floreen,  
44 Well, "more likely" – I would like to know what the answer actually is. Is it possible to ask  
45 them what their rules – how this would work? Because they don't have the School –  
46

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1 Karl Moritz,  
2 They don't have the School Facilities Payment aspect of their APFO. It's either a  
3 moratorium or it isn't. So if the test results in an inadequate finding, then there is a  
4 moratorium; if it's adequate, then it can be approved. But there's no middle ground with  
5 the Schools Facilities Payment.

6  
7 Councilmember Floreen,  
8 There's no middle ground. And really I'm not precisely sure as to how their rules apply,  
9 and I guess no one else is; but Gaithersburg's is different from Rockville's.

10  
11 Karl Moritz,  
12 It's 100% of program capacity, but it's calculated at the school level rather than the  
13 cluster level.

14  
15 Councilmember Floreen,  
16 Okay. Well, it would be helpful to understand – they're now, in effect, sharing in a  
17 moratorium in those school clusters, which I think is what you're saying.  
18 Council President Praisner,  
19 Yeah, there's no payment way out for them.

20  
21 Karl Moritz,  
22 Correct.

23  
24 Councilmember Floreen,  
25 If that is correct, it would be good to be clear about it.

26  
27 Karl Moritz,  
28 And then we reviewed the School Test in the municipalities in the big book, and I'll find  
29 the page number for you.

30  
31 Royce Hanson,  
32 If I could just go back to –

33  
34 Councilmember Floreen,  
35 We don't need to spend a lot of time on this now. I just think it would be helpful for us to  
36 understand –

37  
38 Council President Praisner,  
39 Well, we may want to pursue this with the municipalities too – because what it means is  
40 that there's no payment as a contribution towards solving the problem.

41  
42 Councilmember Floreen,  
43 Right.

44  
45 Multiple Speakers,  
46 [Inaudible -- multiple voices]

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1  
2 Council President Praisner,  
3 Well, correct, but there's also – they are not approving at the individual school, but there  
4 may be in a cluster problem for which they do not –

5  
6 Glenn Orlin,  
7 Well, it's more likely if this is a problem –

8  
9 Council President Praisner,  
10 Not if the cluster is not totally in their municipality.

11  
12 Councilmember Floreen,  
13 Well, without dealing with hypotheticals at this point, since we've asked you for specifics  
14 on what we've done, maybe by next week – whenever we finish this –

15  
16 Council President Praisner,  
17 Yeah, that would be helpful. Because that would be follow-up more than something we  
18 want to do.

19  
20 Councilmember Floreen,  
21 -- it may be helpful to know what the answer is – what the overlap issue might be or not.  
22 Maybe if you're all correct, then we'll know that; and if there's some other issues, it  
23 would be helpful to know.

24  
25 Council President Praisner,  
26 It may be an issue for follow-up, but certainly we can't modify or adjust a Growth Policy  
27 we don't control. But we can keep going. Okay?

28  
29 Councilmember Ervin,  
30 I'd still like to hear what Mr. Chairman had to say.

31  
32 Royce Hanson,  
33 I was just going to say that I hope that the Council will consider very seriously the  
34 limitation that you've placed on the School Test that would place in moratorium at least  
35 two transit station areas for residential development. And I'm concerned that we hinge  
36 that – or that we not hinge it on the prospect that you may approve the Superintendent's  
37 recommendations. The three areas that would be impacted by the test, as tentatively  
38 established by the Council, would place some of Silver Spring – north of Colesville  
39 Road – it would place Wheaton and Glenmont and Clarksburg into moratorium because  
40 of the failure at the elementary school level.

41  
42 Council President Praisner,  
43 Okay. Councilmember Andrews.

44  
45 Councilmember Andrews,



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1 It is an important question, and it is a goal to have the Municipal tests and the County  
2 tests be very similar. What is promising here is that the County's test, if adopted as  
3 proposed by the Committee and preliminarily approved last week, would be fairly similar  
4 to Rockville and Gaithersburg since both cities substantially tightened their tests up in  
5 the last year or two so that we're getting close. It won't have the wide disparity of  
6 considerations that it used to have.

7  
8 Council President Praisner,

9 Okay. The next issue in front of us is the "Effective Date of the New Tests." And staff  
10 has prepared three different options. One would be to apply the tests and go  
11 retroactively back to January of 2007, since folks have been on notice that new  
12 preliminary plan applications filed after this date would be subject to the new tests. One  
13 could apply the test applications filed after November 13th, which is the date for Council  
14 action. Or one could apply the test applications filed after December 31st, 2007, as  
15 three options. The Committee did not make a recommendation on this, so we would –  
16 staff?

17  
18 Glenn Orlin,

19 Again, this is where your Addendum comes in.

20  
21 Council President Praisner,

22 Well, the addendum talks about all the applications that have been filed –

23  
24 Glenn Orlin,

25 Right.

26  
27 Council President Praisner,

28 -- if one wants to make a decision by looking at applications – which is one option – not  
29 necessarily an option, but it is one option. Councilmember Elrich.

30  
31 Councilmember Elrich,

32 I thought that the compromise we reached last winter was the right compromise – that  
33 we exempted projects that were in the pipeline -- that those were the ones that would be  
34 most adversely affected. And we set the July 1st date even to allow a few more things  
35 that were just waiting to come over the transom to go through. So I'm still good on the  
36 January 1st, 2007 date. That's what we said we were going to do. Everybody knew we  
37 said we were going to do that. And I'd prefer to stay there.

38  
39 Council President Praisner,

40 Have there been applications that were approved that have come through as of January  
41 1st and some that have not?

42  
43 Karl Moritz,

44 Yes. Circle 44 are the ones that were submitted since January 7th and approved –  
45 except for one – which is the Montgomery Village Airpark project, which we should not  
46 have included in this list. It was a reapproval, so we shouldn't have included it. And it

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1 has quite a bit of the square footage, actually, in the total. The second list is ones that  
2 were submitted since January 1st, but have not been approved by the Planning Board  
3 as of November 5th.

4  
5 Council President Praisner,  
6 So, Councilmember Elrich, your motion would apply to those both approved and those  
7 not approved. Is that correct?

8  
9 Councilmember Elrich,  
10 That's what we said, yes.

11  
12 Council President Praisner,  
13 Okay. Is there a second to that motion?

14  
15 Council Vice President Knapp,  
16 Second.

17  
18 Council President Praisner,  
19 All right. It's been moved and seconded that we apply the tests to all applications filed  
20 after January 1st, 2007.

21  
22 Glenn Orlin,  
23 I'm sorry -- just one obvious point. The single-family detached developments which  
24 have three or less are de minimis -- wouldn't apply any way because of the de minimis  
25 test.

26  
27 Karl Moritz,  
28 And I do want to --

29  
30 Council President Praisner,  
31 A lot of the -- there are 1s, 2s, and 3s -- single-family unit items -- they would be exempt  
32 from this process.

33  
34 Karl Moritz,  
35 And may I, for clarification purposes -- because this is a quick list -- if there are any  
36 others that are on the list that are amendments, they would not be subject to the new  
37 rules. They just happen to be on this list because they came through. So I apologize if  
38 there's a few that are on here -- other than Montgomery Village Airpark -- that were  
39 simply before the Board because they were amendments.

40  
41 Council President Praisner,  
42 Councilmember Ervin is next.

43  
44 Councilmember Ervin,  
45 I'd like to know which one of these townhouse units and multifamily units are in any of  
46 the areas that are in moratorium. And I'm looking now at clearly the plans submitted

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1 since January 1. The single-family developments are de minimis, but there are some  
2 multifamily units – no, there aren't any. So plans submitted since January 1, but not  
3 approved – there's quite a few of those that are multifamily units. I'd like to know which  
4 ones of these units are going to be -- that will fall into an area of moratorium -- how  
5 many of them are Affordable units? I just want a little bit more information if that's  
6 possible. There's some townhouse units on that list. There's multifamily units on that  
7 list.

8  
9 Glenn Orlin,

10 The only ones that are possible are –

11  
12 Council President Praisner,

13 Could staff be able to get that information by this afternoon, so that we can defer action  
14 until this afternoon on that item?

15  
16 Glenn Orlin,

17 Sure.

18 Diane Schwartz-Jones,

19 Mrs. Praisner, we have the MPDUs for at least for one of them.

20  
21 Council President Praisner,

22 Well, if you could give them all. I think since Councilmember Ervin's question -- rather  
23 than doing it with spotty pieces, it might be better if folks could do this during the lunch  
24 hour.

25  
26 Diane Schwartz-Jones,

27 That's fine.

28  
29 Council President Praisner,

30 Is that okay with you, Valerie? I think then we could all have that. Let's leave  
31 Councilmember Elrich's motion as pending. We will deal with the "Effective Date of the  
32 New Tests," and then we will go to an overall vote on the Growth Policy – recognizing  
33 that we will come back to that issue again. And then we will move to the Impact Taxes  
34 this afternoon. Yes?

35  
36 Unidentified Male Speaker,

37 [Inaudible - no mic]

38  
39 Council President Praisner

40 Well, we've already I guess been doing them. I'm going to do that right now, though.  
41 Yes? Nancy and then Phil. Yes?

42  
43 Councilmember Floreen,

44 One little-known fact about the AGP Tests is that they apply to building permits as well. I  
45 mean you apply a Transportation Test to building permits that may not be preliminary  
46 plan issues but may be a building extension or whatnot. And I wanted to ask if the

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1 intention of this is limited to preliminary plans? I think it would be important to be clear  
2 about that because I know this has certainly been an issue in the community.

3  
4 Council President Praisner,  
5 That was the motion earlier.

6  
7 Councilmember Floreen,  
8 And I just wanted to be clear that this is only about preliminary plans.

9  
10 Council President Praisner,  
11 That's what the motion in January really –

12  
13 Glenn Orlin,  
14 Right.

15  
16 Councilmember Floreen,  
17 Yeah, I just want to be – everyone's clear? Fine. Because Park and Planning – they're  
18 the people who raise these issues with projects. I know it's been an issue with the  
19 Social Services community. Just so -- that's the way the rules work.

20  
21 Royce Hanson,  
22 That's right.

23  
24 Councilmember Floreen,  
25 So this would only – whatever we do, it only applies to –

26  
27 Council President Praisner,  
28 Preliminary plans.

29  
30 Councilmember Floreen,  
31 -- preliminary plan applications. Okay.

32  
33 Council President Praisner,  
34 Okay. Outstanding issues – Councilmember Andrews.

35  
36 Councilmember Andrews,  
37 Thank you, Madame President. This is an issue that I think you have been interested in,  
38 and it would deal with having the Planning Board look at the Jobs/Housing balance –

39  
40 Council President Praisner,  
41 Right.

42  
43 Councilmember Andrews,  
44 -- in planning areas as well as Countywide, and look at the implications for an  
45 imbalance in jobs and housing on housing prices and congestion. I think that needs to  
46 be a part of the Work Program.

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1  
2 Council President Praisner,  
3 Okay, we can work up the language on these items and fold them in. Councilmember  
4 Elrich.

5  
6 Councilmember Elrich,  
7 An additional item I'd like for study is the – I think they're sometimes called "linkages" –  
8 Impact Fees. They're frequently applied to commercial property, recognizing that  
9 commercial property contributes and is part of the overall housing issue. And they use  
10 the Impact Fees in Seattle, Boston, about thirty cities in California. Arlington, Virginia  
11 has linkage fees; and they use that to raise money from the commercial sector to help  
12 fund Affordable Housing projects. And I know that there's a number of people that are  
13 interested, and I'm very interested in looking at that.

14  
15 Council President Praisner,  
16 Vice President Knapp.

17  
18 Council Vice President Knapp,  
19 Thank you, Madame President. The first is for number (4) – the Planning Board Budget  
20 for the data base of current traffic counts. Is there a reason that we can't do that for the  
21 upcoming budget as opposed – do we have to wait for a year to actually put that  
22 request in?

23  
24 Glenn Orlin,  
25 This is for the upcoming budget, for FY2009.

26  
27 Council Vice President Knapp,  
28 Okay. So then it's –

29  
30 Council President Praisner,  
31 Then the due date's wrong.

32  
33 Council Vice President Knapp,  
34 Yeah, something wasn't adding up there.

35  
36 Council President Praisner,  
37 If it's for the 2009, then the due date has to be –

38  
39 Glenn Orlin,  
40 Oh, sorry -- 2007 -- sorry.

41  
42 Royce Hanson,  
43 We'd rather not have a due date before we get the budget.

44  
45 Council Vice President Knapp,

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1 Okay. And then the second is -- it relates to the CIP element of number (1). Obviously  
2 we're going to do a CIP in the upcoming year. And to the extent that we can get any  
3 guidance from the Planning Board as it relates to master plans -- outstanding projects --  
4 that's going to be helpful for us as opposed to waiting effectively three years for us to be  
5 able to get that information. So while I know there are a number of other parts that are  
6 there that may tie into future Growth Policy, is there a way -- is there a date or  
7 something we can put in here as it relates to the CIP portion of that that coincides more  
8 with what we're going to do in the upcoming --  
9

10 Royce Hanson,  
11 We have in the current budget, I believe, in our Work Program some work on that for  
12 you for this coming CIP. It will not be as complete as it will be, but it's a start.  
13

14 Council Vice President Knapp,  
15 Right. Okay, so we could have a piece of that then that's due to come out in February or  
16 something.  
17

18 Royce Hanson,  
19 Right.  
20

21  
22 Council Vice President Knapp,  
23 Okay. I think those are all my questions at this point. Thank you.  
24

25 Council President Praisner,  
26 Councilmember Floreen.  
27

28 Councilmember Floreen,  
29 I just want to follow-up on what Mike just said. I think the issue of how we deliver the  
30 infrastructure that we're intending to deliver is absolutely the most -- that's the whole  
31 point of this, frankly. And I would like to -- I do expect to have more aggressive  
32 assistance from you in working with the County Executive staff in the Capital Budget --  
33 which I believe is going on right now. If it isn't -- maybe not?  
34

35 Edgar Gonzalez,  
36 It was submitted already.  
37

38 Councilmember Floreen,  
39 It's been done. So this is a problem. We do need your advice on what our priorities  
40 should be and must be. This is about catching up with a provision of infrastructure. And  
41 we really need your help immediately on this subject. Given what we heard this morning  
42 on what's happening in Annapolis on transportation funding, we'll just have to wait and  
43 see.  
44

45 Council President Praisner,  
46 And wait and wait and wait and wait.

Councilmember Floreen,

But certainly – well, let's agree it's not going to be a solution. And so we really do need your aggressive assistance on identifying the improvements that we've got to figure out how to pay for in a comprehensive fashion. We have the Infrastructure Task Force recommendations. Some of those are certainly tied to the parking issue, and others to some of the taxing initiatives in front of us. But we've got to get going on these things immediately. So I would appreciate your comments on these particular points sooner rather than later, and February's still going to be a little late. But at least we're going to need those comments by the time we get into the CIP. Doing this stuff is a lot harder than actually talking about it in the abstract. If we're going to build capacity, that means building capacity. It means building roads that are not welcomed by many portions of our community, particularly the ones who are living next to them. But this is based on that. So that's the end of my little comment on that. We need your help and we need it soon.

Council President Praisner,

Okay. I still have some lights. Councilmember Trachtenbeg.

Councilmember Trachtenberg,

Just briefly, I would make note of a recommendation or request that I provided, which is on page 9 of the packet – again, evaluating the cost and benefits of employing the Housing and Transportation Affordability Index rather than the more traditional measures of Housing Affordability. I think that would be a worthwhile endeavor; so I would encourage my colleagues to support that.

Council President Praisner,

And Vice President Knapp.

Council Vice President Knapp,

Thank you. The last question is – and it kind of built off the transportation piece Ms. Floreen just raised – if we come up with an alternative mechanism to actually fund our transportation projects, outside of the course of FTA, Maryland State Highway, or MDOT, is there a way for us to recognize that – since it's going to be different – that those transportation calculations can be categorized and used for assessment? And I don't know -- because I don't know that we've actually funded projects outside of – if we actually end up with a public/private partnership or private partner – if the right deal presents itself – that that actually gets reflected within our CIP or within our planning process because we may not be the funder of it.

Council President Praisner,

There is language somewhere that I saw that relates to consideration of what's in the CIP, the CTP, and also any other funding mechanism.

Council Vice President Knapp,

But does it have to be in all those places?

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Council President Praisner,  
No.

Glenn Orlin,  
No.

Council President Praisner,  
No, it doesn't. And it gives three different kinds of funding.

Glenn Orlin,  
Well, if it's a developer-funded project which is a condition of a subdivision approval – even if its –

Council Vice President Knapp,  
But what if it's not a requirement –

Council President Praisner,  
It doesn't say, "developer-funded project"; it says, "other funding sources," as I recall.

Council Vice President Knapp,  
If you could check on that during lunch just to make sure, because we may have another way to look at that – we may have to have another way to look at that because –

Council President Praisner,  
It's in the Resolution; I'll find it.

Council Vice President Knapp,  
Okay. Thank you.

Council President Praisner,  
Okay. All right. We've had a request to -- absent the "Effective Date" -- to take a straw vote on the tests that we've put in place as recommendations. This afternoon we will look at the Effective Date, we will look at the Impact Taxes, and we will take another vote on the –

Glenn Orlin,  
To Do List.

Council President Praisner,  
-- Growth Policy as it relates – as having already looked then at the tax rates. But all in favor of the policy elements that we have approved to date, absent the "Effective Date Test"? All in favor of that, please indicate your support. [Show of hands]  
Councilmembers Andrews, Berliner, Praisner, Trachtenberg, and Elrich. Those



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- 1   opposed? Councilmember Ervin. Those abstaining? Councilmembers Floreen and
- 2   Knapp. Okay. We are in recess till 1:30. Eat fast.

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1  
2  
3  
4  
5  
6  
7  
8 President Praisner,  
9 Okay, folks. If folks can take their seats, please. Steve. Okay. All right, we have a  
10 couple of questions, and I want to try to get us as much as we can through the process  
11 before we lose another Councilmember who has to leave early.  
12  
13 Vice President Knapp,  
14 They're dropping like flies.  
15  
16 President Praisner,  
17 Well, no. Yes, two legged.  
18  
19 Councilmember Trachtenberg,  
20 I have a bow and arrow in my office, too.  
21  
22 President Praisner,  
23 No, no, no. Okay, guys. All right, when we last left the saga of the County Council, we  
24 were looking at the effective date questions and also staff was going to prepare some  
25 information. I don't know if you've had a chance to do that. If not -- .  
26  
27 Mr. Moritz,  
28 Yes. The question was of the list of projects, which ones would be a moratorium as a  
29 result of the school test. And that would be one, actually. The Circle 45 Falkland Chase,  
30 and that project, although it has not been approved yet, so the MPDU's haven't been  
31 fixed, it shows 1,020 units total, it will be about 128 MPDU's.  
32  
33 President Praisner,  
34 So that's Falkland Chase is the only one that would be affected by that issue.  
35  
36 Mr. Moritz,  
37 By the school moratorium.  
38  
39 Dr. Hanson,  
40 That is on our schedule within the next month for [inaudible].  
41  
42 President Praisner,  
43 Right, okay.  
44  
45 Glenn Orlin

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1 I think the question was those that are in metro station policy areas that are moratorium;  
2 correct?

3  
4 Mr. Moritz,  
5 Yes.

6  
7 President Praisner,  
8 Okay. There would be -- the question related to projects before you that would be  
9 affected, meaning this list, because they are in metro station policy areas and also in an  
10 area where the school cluster would be affected by virtue of lack of capacity.  
11 Councilmember Ervin.

12  
13 Councilmember Ervin,  
14 Let me just be clear about what that means. So Falkland Chase has -- where are they in  
15 the process right now?

16  
17 Dr. Hanson,  
18 They are at the process plan, preliminary plan, review stage, staff report on the project  
19 has been written. It will be -- it's to be scheduled before the board in the next several  
20 weeks. I've forgotten exactly when. We have various [inaudible] before that, we do have  
21 scheduled the issue of historic designation for that area also.

22  
23 Councilmember Ervin,  
24 So I just want to know practically what it means. So this is a development that I know  
25 just a little bit about, but they have a significant number of affordable units that I know  
26 that's in their plan, but I know that they are willing to go higher than that.

27  
28 Dr. Hanson,  
29 I can't discuss -- .

30  
31 Councilmember Ervin,  
32 I know you can't discuss it. Let me make my point, because we're going to come up to  
33 this conversation about affordable housing here in just a second. So the schools test  
34 puts them into moratorium. So that means -- .

35  
36 Dr. Hanson,  
37 That means that we could not approve the preliminary plan if they are in moratorium.

38  
39 Councilmember Ervin,  
40 That would be a problem.

41  
42 Dr. Hanson,  
43 It would be a certainty.

44  
45 President Praisner,  
46 Okay. Lights, I have several lights. Councilmember Berliner.

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1  
2 Councilmember Berliner,  
3 Does Park and Planning have a view with respect to the effective date?

4  
5 Dr. Hanson,  
6 We have not -- we had originally proposed a phasing in on the dates -- the PHED  
7 Committee had wanted a specific date. I don't think we had a strong view on it. Do you  
8 remember, Karl?

9  
10 Mr. Moritz,  
11 The phasing that's for the -- the Board had a position on phasing in the impact test. The  
12 board did not take a position.

13  
14 Dr. Hanson,  
15 That's my recollection. We didn't take a position.

16  
17 Mr. Moritz,  
18 On the effective date of the [inaudible].

19  
20 Councilmember Berliner,  
21 Madam President, my personal suggestion, and I certainly defer to the [inaudible] body  
22 to defer any votes with respect to this matter for another week to allow all of us to just  
23 think a little more clearly with respect to the effective date issue. I for one had not  
24 focused with respect to that or its impact, and just think we would be better served by  
25 putting the pause button on this conversation for a week.

26  
27 President Praisner,  
28 Okay. Councilmember Floreen.

29  
30 Councilmember Floreen,  
31 Thank you. Okay, just so I understand for the plan submitted and approved since  
32 January 1, if we were to go that route that would require then an application of the  
33 schools facility fee where necessary.

34  
35 Dr. Hanson,  
36 That's correct.

37  
38 Councilmember Floreen,  
39 And as best I can gather, that would apply to lot 31 then in Bethesda?

40  
41 Dr. Hanson,  
42 Lot 31 has had preliminary plan approval.

43  
44 Mr. Moritz,  
45 But -- .

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1 Councilmember Floreen,  
2 Is that in the BCC cluster? I would assume, I don't know.

3  
4 Mr. Moritz,  
5 Yes.

6  
7 Dr. Hanson,  
8 Yes.

9  
10 Councilmember Berliner,  
11 It would apply.

12  
13 Councilmember Floreen,  
14 Okay. And I think that's the only one the Galaxy project in Silver Springs CBD is not in  
15 the Einstein Cluster.

16  
17 Mr. Moritz,  
18 No, it's in the Blair Cluster.

19  
20 Councilmember Floreen,  
21 If a project would be in a moratorium area, would you accept an application?

22  
23 Dr. Hanson,  
24 I suppose we would accept an application. It's unlikely [inaudible] seems to me it would  
25 be impossible for us to approve it.

26  
27 Councilmember Floreen,  
28 Would it sort of -- I mean, sort of gear up to the approval, I am thinking of the Silver  
29 Place Project.

30  
31 Mr. Moritz,  
32 The moratorium does not prevent the Planning Board from accepting applications. It  
33 prevents them from acting on them.

34  
35 Councilmember Floreen,  
36 Okay.

37  
38 Mr. Moritz,  
39 I do want to reiterate something I mentioned this morning because there are several  
40 plans on the list that we inadvertently included that are amendments that did not add  
41 capacity; and I just want to remind you that when amendments come in that do not add  
42 capacity, they are not freshly subject to the Adequate Public Facilities Ordinance.

43  
44 President Praisner,  
45 Only the amendment.

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1 Mr. Moritz,

2 Only the amendment or if the amendment were to add capacity.

3  
4 President Praisner,

5 Okay. Can you indicate only the piece that is the amendment has to be affected by it or  
6 not even the amendment? I wasn't clear what you meant. I thought it was only the  
7 amendment.

8  
9 Mr. Moritz,

10 If the amendment does not add capacity, it's not subject to it at all. If the amendment  
11 adds capacity -- .

12  
13 Dr. Hanson,

14 Adds trips.

15  
16 Mr. Moritz,

17 Or adds trips, then it's opened, again. And we look at the whole [inaudible].

18  
19 President Praisner,

20 Everything or just -- you look at the whole thing?

21  
22 Mr. Moritz,

23 We have -- in most cases we look at the whole thing. If it's a very old project we have  
24 proposed language that if it's 12 years or more that have gone since the original  
25 approval that you only look at the added increment.

26  
27 President Praisner,

28 Okay. Can you provide a notation on the list of those that do not only -- are  
29 amendments and that way we have some sense?

30  
31 Mr. Moritz,

32 Yes, I can do that. I apologize that it's not done now.

33  
34 President Praisner,

35 It's okay. Okay. Vice President Knapp.

36  
37 Vice President Knapp,

38 Thank you, Madam President. I have one question. I have two changes that I alluded to  
39 before lunch for our Council's consideration. The first ask -- both upon the public school  
40 adequacy follow-up, in particular the comments raised by the Chair earlier this morning.  
41 And the question I have is, especially to kind of talk through some of these processes; if  
42 we make the appropriate modifications and ultimately the only cluster that is a  
43 moratorium becomes Clarksburg, which has all of its unique activities. And so to some  
44 extent it's kind of the dog chasing its tail. And so I guess my question to you is --  
45 pardon?

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1 President Praisner,  
2 Such an image.

3  
4 Vice President Knapp,  
5 Because we have got what's approved that's approved, and we have got what's already  
6 in the CIP for at least additional feasibility works as it relates to schools in Clarksburg  
7 moving forward. But in order for Clarksburg to kind of move forward, you have -- it  
8 assumes there's some level of population to sustain some of those activities there, be it  
9 new commercial activities, new retail activities. And I guess just to get your sense, if the  
10 moratorium is applied in that area, and it's difficult to kind of look in a crystal ball and  
11 predict; but given the numbers of subdivisions that are out there right now relative to  
12 what should happen, do you think that -- and the fact we could be in a moratorium -- do  
13 you think that there is enough capacity there to kind of get the initial stages of  
14 Clarksburg underway from an economic perspective? Or do we just not have a core  
15 constituency there that's big enough to move forward?

16  
17 Dr. Hanson,  
18 I really can't answer that for you right now. I think I would have to look at where these  
19 various applications are. And I just don't have that in my head.

20  
21 Vice President Knapp,  
22 Could you, I mean, obviously we're going to do straw votes and whatever, but if you  
23 could just take a look. And that's my concern, and I don't know. I don't have any  
24 numbers before me either. I just know that people -- we're looking at retail activities that  
25 are going to require at least enough customers to sustain the activity, and if we don't  
26 have enough activity on the ground now and we've effectively kind of put in place  
27 [inaudible] moratorium until we address the next CIP, you're looking at two, three, four,  
28 five, six, seven years before we can get there. And that may be okay if we have that  
29 conversation. I just don't want us to back into that.

30  
31 Dr. Hanson,  
32 Well I don't want you to back into it either. I think we should take a look at that because  
33 if you stick with your 120% top for moratorium, Clarksburg will be affected. And if you  
34 don't approve the superintendent's recommendations for the Einstein and Kennedy  
35 clusters, Silver Spring and Wheaton and Glenmont would be affected as well for  
36 residential development.

37  
38 Vice President Knapp,  
39 But in Clarksburg even if we do the CIP -- the superintendent's recommendations,  
40 you're still in moratorium.

41  
42 Dr. Hanson,  
43 Well you would not be in moratorium for nonresidential development in Clarksburg, but  
44 you would be for residential, with the only problem being that much of the nonresidential  
45 development depends upon the residential.

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1 Vice President Knapp,  
2 The residential -- which is kind of the point, right.

3  
4 Dr. Hanson,  
5 For its market.

6  
7 Vice President Knapp,  
8 Right. Okay.

9  
10 Dr. Hanson,  
11 Especially the retail.

12  
13 Vice President Knapp,  
14 If there's a way for you guys to take a look at that that would be helpful. I just distributed  
15 to my colleagues some language that addresses the point I raised earlier that talks  
16 about the fact that there may be some preliminary plans that through the plan of  
17 compliance need to be reapplied. And so the language is -- reads like this: in  
18 Clarksburg the new transportation school capacity standards test set forth in the  
19 adapted 2007-09 AGP will not be applied to either a preliminary plan amendment or  
20 preliminary plan extension to the extent that transportation and school impacts  
21 associated with a previously approved preliminary plan are not exceeded; or simply that  
22 if they have already received approval, they are okay if they have to re-file, as long as  
23 whatever they re-filing for doesn't exceed whatever the limits of the previous approval  
24 were.

25  
26 Dr. Hanson,  
27 That would -- .

28  
29 President Praisner,  
30 Like an amendment issue, then.

31  
32 Dr. Hanson,  
33 That would probably work, because if they have an approved plan, that calculation is  
34 already in the pipeline.

35  
36 Vice President Knapp,  
37 Right.

38  
39 President Praisner,  
40 Right.

41  
42 Dr. Hanson,  
43 For anything new. So this would cover any plan that has been filed that either needs to  
44 be extended for its APFO requirements or any re-filing that might be required as a result  
45 of compliance provisions. It would not cover any subdivision plans that had not -- have  
46 not been filed before -- I mean after whatever your effective date turns out to be.



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46

President Praisner,  
Okay.

Vice President Knapp,  
Right. So I would move that -- adoption of that language.

President Praisner,  
Is there a second?

Councilmember Berliner,  
I'll second it.

President Praisner,  
All right, been moved and seconded that that language be added to the growth policy  
resolution. Discussion on that item? Valerie, are you on this item?

Councilmember Ervin,  
I'm not on that item.

President Praisner,  
Okay, all in favor of the amendment please indicate by raising your hands. That is  
unanimous.

Vice President Knapp,  
I thank my colleagues.

President Praisner,  
Okay, Councilmember Ervin.

Vice President Knapp,  
I have one more. I'm sorry.

President Praisner,  
One more.

Vice President Knapp,  
I'm trying to get them all in here as we go through.

President Praisner,  
I'm sorry, I thought I -- I see your hand up. No. You're abstaining? Okay, I apologize.  
Madam Clerk, please note that correction. Okay.

Vice President Knapp,  
Okay. The second item I had was also one that we discussed earlier that upon further  
consultation with Dr. Orlin and Mr. Hardy that required apparently some further

1 clarification, I guess. And the issue here is that -- at least as I understand it -- that for  
2 the purposes of master plan density and calculations that -- contrary to the conversation  
3 we previously had -- that in fact the Planning Board or Planning Board staff would --  
4 Planning staff would take the existing growth policy guidance as kind of the limitations in  
5 its consideration for densities within a master plan. And especially given what we're  
6 talking about with the purple line, corridor cities, that there may be master plans coming  
7 up that from a Planning perspective and from smart growth perspective, we would look  
8 at and think would make sense to have a greater density than what would already be  
9 there, but could be limited because of some of the things we're doing. And so all this  
10 amendment does is to try to recognize that for the master plan perspective that they  
11 look at what makes sense from Planning as opposed to limiting themselves to whatever  
12 may be in the existing two-year growth plan. Which as I understand, is kind of implied,  
13 but apparently in practice doesn't necessarily follow through all the way.

14  
15 President Praisner,  
16 Isn't this what we do, though?

17  
18 Dr. Orlin,  
19 Depends on the area. I mean, if it's got a major transit line, then, yes, in the future, the --  
20 I think what Mr. Knapp is worried about is unless there's guidance from the Council, the  
21 Planning Board might bring back a Master Plan for West Gaithersburg, which would be  
22 based on the current AGP standards [inaudible] critical in volume. He basically wants to  
23 give positive guidance to them to come back with a balancing point in the Master Plan  
24 which recognizes the Corridor Cities Transitway.

25  
26 President Praisner,  
27 All right. My only problem is that to the extent we are talking about these three transit  
28 ways, there's the sentence about it not being counted until the segment is fully funded.  
29 That's a piece of everything from the old conversation -- the previous conversation. My  
30 point is would you treat other master plans, not these, differently if it came to level of  
31 service?

32  
33 Dr. Hanson,  
34 I should think we would treat all master plans that we present to you essentially the  
35 same way. That is, that we would take a hard look at what makes sense for that  
36 particular area. The Growth Policy from the Board's perspective is principally a guidance  
37 for administration of the subdivision regulations. It provides useful information to us and  
38 hints about the -- with regard to master plans, but does not govern the production of  
39 master plans.

40  
41 President Praisner,  
42 That's -- the reason why I asked that question is I don't want this language to suggest  
43 that this is the approach only in these areas tied to those transit improvements. But any  
44 master plan you look at shouldn't be driven by the Growth Policy; it should be driven by  
45 what is our land use goals and our balance and capacity and development. And that  
46 would then affect perhaps the next Growth Policy -- .

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1  
2 Dr. Hanson,  
3 It might affect the next Growth Policy.

4  
5 President Praisner,  
6 But not that the Growth Policy is dominant. So I don't want this language to suggest  
7 since it's tied to these three, that it's only these three.

8  
9 Vice President Knapp,  
10 Well let me propose this then. Let's recognize that this is the issue, and I agree with you  
11 completely. And so this was in response to kind of subsequent conversations  
12 afterwards. I'm happy to try and come up with something that's broader that captures  
13 basically what I think the Chair has just said they would probably do. But in the absence  
14 of any of us still being here and whatever period of time that we actually have that  
15 embodied someplace. And so I'm happy to play with the language and come back with  
16 something that address -- that doesn't single this out at the exclusion of other things.

17  
18 President Praisner,  
19 Well this may be fine the way it is, but it may need a couple of other sentences that says  
20 something about this is not to suggest or this is actually consistent with what -- the way  
21 you would approach any master plan.

22  
23 Vice President Knapp,  
24 Let me work with Glen and staff to come up with that. I hear that concern. I would rather  
25 go broader than narrower as well.

26  
27 President Praisner,  
28 Well you may want to have it tied to these. But you need to, I think, make sure it's not  
29 being looked at as an exclusive kind of approach.

30  
31 Vice President Knapp,  
32 Okay.

33  
34 President Praisner,  
35 Does anybody have any problems with that approach? Nancy.

36  
37 Councilmember Floreen,  
38 Yes. I mean, I don't -- I mean, I respect the conversation, but I really would put this in  
39 another category for conversation. None of our master plans to date have anything in  
40 them associated with PAMR, the test that the Council has just adopted. And that's  
41 because we just made it up. In fact, it was created in just the past two weeks. So let's  
42 agree that things occur, changes happen, we get smarter hopefully every day. And I  
43 don't think you -- I just don't think that the Growth Policy is the best place to link capacity  
44 analysis that we apply on a biannual basis or whenever -- it looks like we're going to do  
45 it every couple of months now. But on a regular basis as opposed to the master plans,  
46 which have a multiyear coverage. And while I don't disagree with what you're saying

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1 here, I think you do open yourself up to saying then we have to adjust it to reflect other  
2 kinds of contingencies, other kinds of choices, and particularly where we are dealing  
3 with a balance of initiatives, it's not just hard transit provision in this analysis; it is  
4 operational delivery of bus service and the like.

5  
6 President Praisner,  
7 That's the good point.

8  
9 Councilmember Floreen,  
10 Yeah, I'm seconding Madam President's comments, but I'm not sure that -- if you're just  
11 going to have general language that doesn't go to this in any real detail, that's fine. But it  
12 doesn't -- I just don't think it nails the concern that you have. I think it's a very valid  
13 concern, but I think it's a Master Plan conversation as opposed to a Growth Policy  
14 conversation.

15  
16 Vice President Knapp,  
17 And I agree. And so I was concerned in the following conversations where at least it  
18 appeared to me there was guidance being taken from what we would do in our Growth  
19 Policy, and then that would be used in the calculations of how the Master Plan would be  
20 developed at any given point in time.

21  
22 Councilmember Floreen,  
23 I know that we will get this issue with White Flint. What do we get next? Twin Brook?

24  
25 Dr. Hanson,  
26 Twin Brook you'll be getting first.

27  
28 Councilmember Floreen,  
29 I don't know if that will address this. It might.

30  
31 Dr. Hanson,  
32 To some degree, it will.

33  
34 Councilmember Floreen,  
35 And that might be the right operating room in which to have this exchange. That is what  
36 I would -- .

37  
38 Vice President Knapp,  
39 I will propose to work on the language relative to the concerns you've just raised if we  
40 get to a point that people are comfortable, then we can do it. If not then -- .

41  
42 President Praisner,  
43 Well we'll put that and this language into the resolution with notation for next week's  
44 discussion that we will have to make a decision about it, but you can incorporate  
45 something in the resolution. Councilmember Ervin.

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1 Councilmember Ervin,

2 I would like to go back to a discussion we had right before break, and I think Dr. Orlin,  
3 you were discussing with us the schools test. I just need one more question answered  
4 about Einstein cluster as it relates to Falkland. So you're saying by July. What would  
5 happen?

6  
7 Dr. Orlin,

8 If the Council approves sufficient capacity in the Einstein cluster that the superintendent  
9 is now recommending, then as of July when -- when, not if but when all of these  
10 numbers are recalculated, the result would be that Einstein cluster will no longer be in  
11 moratorium. In fact, it won't even be in the 105% range. In fact, it won't even kick in a  
12 school facility payment. It will be totally adequate. So if the approval happens after July  
13 1st, again, if the Einstein capacity is added, then this development will go forward  
14 without any other requirements on the school side.

15  
16 Councilmember Ervin,  
17 Okay. Thank you.

18  
19 President Praisner,

20 As I recall, when we first introduced this payment process, there was the risk of several  
21 clusters being in moratorium. But the massive Capital Budget program that the Council  
22 adopted eliminated the need for any school adequacy payment. Correct?

23  
24 Dr. Orlin,  
25 Correct.

26  
27 President Praisner,

28 So they are related from a Capital Budget and review process. We have had a request  
29 for some additional information on this chart as it relates to amendments, et cetera. We  
30 also have had a request by Councilmember Berliner to defer till next week that effective  
31 date question. Since he had to leave, I'm going to honor that. We then need to, I think,  
32 move to the issue of the revenue measures. Am I correct?

33  
34 Dr. Orlin,  
35 If you're going to do the to-do list at the end.

36  
37 President Praisner,  
38 Pardon me?

39  
40 Dr. Orlin,  
41 If you're going to do the to-do list at the very end of our briefing.

42  
43 President Praisner,

44 Well we did talk about the to-do list this morning. Councilmembers have indicated  
45 preferences and language, and they will provide or you should work with them on  
46 language. I don't know that there's anything more to do right now. What I had an

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1 opportunity coming down the elevator to grab a quick bite of lunch; and I know Planning  
2 Board staff had the similar limitations -- to mention to them that it might be helpful,  
3 Royce, for the Planning Board staff and you to look at the list of things that we have put  
4 out there. You have a sense of the Council -- individual Councilmembers and the  
5 committees interest in what needs to come first from our view; what may be ongoing;  
6 what are sequential and building-block kinds of things; and lay out a -- what might be  
7 effective dates that might be modified from what's in the resolution.

8  
9 Dr. Hanson,

10 There are some of those dates that I think it will be useful to modify. In some cases,  
11 there are things that ought to come together, and maybe a couple of things that will be  
12 associated with the production of other plans or documents that we're bringing to you.

13  
14 President Praisner,  
15 Right.

16  
17 Dr. Hanson,  
18 Particularly the housing element.

19  
20 President Praisner,  
21 If you could layout those sequence for us, and if possible, if we could have that by  
22 Thursday or so, that way Councilmembers have time because there is a holiday  
23 weekend coming up. There will be -- Council won't be here on Monday. It will help us to  
24 know if Councilmembers have modifications or have corrections or adjustments to the  
25 resolution. And the same is true for the Executive Branch on that item. Okay. Let's move  
26 then to the Revenue Measures, and I will gladly turn the table and microphone so to  
27 speak over to the Chair of the MFP Committee. Councilmember Trachtenberg.

28  
29 Councilmember Trachtenberg,  
30 Thank you, Madam President. Before we start in with the revenue I just want to note to  
31 Dr. Orlin that it was my intention during this conversation this afternoon to interject some  
32 connection for colleagues around the to-do list, because there is some overlap here as  
33 you suggested this morning. And I'm actually going to start the conversation off by  
34 addressing the recordation tax, which is on page 6 of the packet that we are looking at,  
35 which is Agenda Item 7 through 9. And I'm going to walk us back suspecting that the  
36 transportation tax indeed is probably going to be the more meaty conversation. So in  
37 terms of the recordation tax, there was a committee recommendation -- again a 2-to-1  
38 recommendation. And the recommendation was raising the basic tax rate by \$1.60,  
39 increasing the overall rate from 6.90 to 8.50, and for any properties that were sold for  
40 more than \$600,000, add an increment of \$1.50 on that amount for a maximum rate at  
41 \$10 per 1,000. And to also retain the exemption for the first \$50,000 of the sale price for  
42 the owner-occupied homes. And I know there are some alternatives other than what the  
43 committee recommended, and at this point, I actually just want to state that I would like  
44 to offer a different proposal than what the committee recommended. I guess if there's  
45 one thing I have learned in the few months I have been here -- well not quite a few it's  
46 actually been almost a year -- is to be pragmatic. And so, you know, recognizing that

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1 there seems to be consensus to raise the rate, what I'm asking is that we not raise the  
2 rate for any homes under \$500,000. And that we apply an increase for any properties  
3 sold for more than \$500,000 and over, I guess, in a gradual way; increase the rate up to  
4 a maximum of \$10, and then whatever increase is realized from that, in other words,  
5 whatever revenue is realized, I would ask that that actually be applied to the housing  
6 initiative fund, specifically for the purpose of funding a rental assistance program for  
7 low- and moderate-income households. And what I'm talking about is MPDU eligibility  
8 and below. I know from assorted conversations with colleagues and with some staff,  
9 there seems to be two sets of questions here. One is about the gradation of this type of  
10 increase. And I know I had spoken directly to Dr. Orlin about that. The other side of it as  
11 well is what is the percentage of revenue that's actually applied for this purpose? And I  
12 wonder before I have -- we ask for comments from colleagues, I wonder if Dr. Orlin  
13 wanted to address the gradation issue?

14  
15 Dr. Orlin,

16 Sure. My understanding is your proposal, Ms. Trachtenberg, is that it's similar to the  
17 increment that the committee recommended, that the \$10 rate apply to the increment  
18 over \$500,000.

19  
20 Councilmember Trachtenberg,  
21 Right.

22  
23 Dr. Orlin,

24 So if it's a \$600,000 house, you pay the \$6.90 rate, but an addition \$3.10 on \$100,000.  
25 As far as revenue is concerned, we don't have a specific revenue estimate for this  
26 particular proposal, but I have one that's close to it. If you look at Circle 21 of the packet  
27 -- and we are looking by the way at the packet 7 through 9 -- Agenda Items 7 through 9,  
28 that one. If you look at Circle 21 of that you see a set of tables that finance prepared for  
29 us. If we're increasing the rate by \$3.10 -- if we were to increase the rate by \$3.10 on  
30 homes larger than \$600,000, it would produce an estimate of about \$7.7 million more.  
31 Because the proposal is \$500,000 higher, it would be more than this. We don't have an  
32 estimate, but it would probably be a couple million dollars more than this. So it would  
33 probably be in the range of about \$10 million is what this proposal would generate a  
34 year.

35  
36 President Praisner,

37 Okay. We have lights. Do you want to go to that at this point?

38  
39 Councilmember Trachtenberg,

40 Why don't we go to the lights, and I'll have a chance to respond.

41  
42 President Praisner,

43 Okay, Councilmember Knapp -- Vice President Knapp.

44  
45 Vice President Knapp,

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1 Thank you, Madam President. I appreciate both the recommendation from the  
2 committee and what the Chair has just raised. One of the issues I'm concerned with,  
3 especially given the conversation we had with the County Executive this morning, is  
4 there is no element of the conversation that is taking place in Annapolis that looks good  
5 for Montgomery County residents. And as a result, there is nothing that looked  
6 particularly good for our upcoming budget discussion. And in addition -- so I think that  
7 there is -- that the County Executive is right in that perhaps we would want to hold off on  
8 any recordation increase at this point in time until we have a better sense of assessing  
9 what the full impact of the damage may be from the current special session in  
10 Annapolis. So that's I think that's one piece. I think as it relates to the effect on  
11 homeownership, and that this being kind of a marginal cost, it actually does make it  
12 difficult for people to get into homes. I think that actually the committee has done a good  
13 job of trying to recognize that. And I think that may be helpful as to how you've  
14 structured it when we get to that point. The other piece I think that we need to take into  
15 account, be it for affordable housing, be it for infrastructure, which I know is one of the  
16 recommendations that come out of the Infrastructure Task Force; it seems to me that  
17 we have to look at both what the effect of Annapolis' impact will be on Montgomery  
18 County, and then to have a broader discussion as it relates to if we're even going to  
19 designate a portion -- do you designate it for infrastructure; do you designate a portion  
20 for infrastructure; do you designate a portion for housing; or do you not designate it all  
21 and putting it into the General Fund and make sure you have access to all of those  
22 resources. And so for that -- for those reasons, I think it's important for us right now,  
23 since we can, if I'm correct, we can do the recordation tax at any time, can we not?  
24

25 President Praisner,  
26 Uh-huh.  
27

28 Vice President Knapp,  
29 That we may want to hold off on any increase -- I'm recognizing that it's going to be  
30 important potential source of revenue -- until we know what we are faced with so we can  
31 actually keep all of our options open and be able to address whatever the biggest fire is  
32 at that time.  
33

34 President Praisner,  
35 Councilmember Floreen.  
36

37 Councilmember Floreen,  
38 Thank you. I think that's an interesting proposal, Ms. Trachtenberg. I was going to go  
39 with advancing the -- doubling the exception on number, but your proposal is another  
40 way of spreading the burden, and my only question is what do the housing people say  
41 in terms of how this revenue might be allocated? I certainly support allocating this  
42 money to the Housing Initiative Fund, so I'm with you on that. What I don't know -- I  
43 know that we have been working for years frankly on ways to finance -- of looking at a  
44 predictable stream of revenue to finance a variety of things through the Housing  
45 Initiative Fund, not the least of which is generating dollars for -- so that the County could  
46 follow through on its right of first refusal for acquiring buildings that are on the market



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1 that we would like to be able to acquire, and other items of that nature. And we surely  
2 look at this on an annual basis in the budget. But I'm wondering if you -- I'd like to hear  
3 from the Housing people as to how they would have it. I don't know if you had  
4 conversations with Mr. Nelson or -- and here he comes -- as to -- .

5  
6 President Praisner,  
7 Rick, would you join us at the table, please.

8  
9 Councilmember Floreen,  
10 As to allocating revenue. Mr. Nelson, hopefully you were listening in.

11  
12 President Praisner,  
13 I think he was on the elevator or maybe running up the stairs.

14  
15 Mr. Nelson  
16 He was on the phone, and then he realized -- .

17  
18 Councilmember Floreen,  
19 Lucky for us you're in the same building. The proposal is to allocate revenue from a  
20 recordation tax increase to rental assistance programs. And I am wondering if -- in your  
21 view, if that's your recommendation if we were to go to way, or is there a different use of  
22 those dollars that you would prioritize at this point; or would you ask that we resolve that  
23 after a little further conversation with the housing advocates out there?

24  
25 Mr. Nelson,  
26 I think I would accept the last suggestion. The fact is that we are currently having  
27 discussions with the Affordable Housing Task Force, and with the County Executive in  
28 terms of different ways that we can in fact affect the affordable housing market, and to  
29 make more housing available including some tenant assistance. And at this point,  
30 neither the task force, the department, or for that matter, the Executive are ready to put  
31 forth a specific proposal, whether it be assistance directly to residents or some other  
32 form. So if, in fact, you were to make some additional monies available, we would be  
33 pleased and be ready shortly to come up with some specific recommendations and  
34 work with you in terms of the utilization of those funds.

35  
36 Councilmember Floreen,  
37 If the makers of the motion would accept that approach to dealing with your allocation of  
38 the dollars, I'm here to second it.

39  
40 Councilmember Trachtenberg,  
41 Okay. I have some thoughts, but I would like to hear from Councilmember Ervin. I think  
42 she's got [inaudible].

43  
44 President Praisner,  
45 Let me go on to the folks who have their lights on. But Diane Schwartz-Jones wanted to  
46 comment.

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1  
2 Ms. Schwartz-Jones,

3 I just wanted to clarify though that as the Executive has consistently recommended that  
4 there not be increases at this time, and that if there are, that they go to the General  
5 Fund.

6  
7 President Praisner,  
8 Okay. Councilmember Ervin.

9  
10 Councilmember Ervin,

11 Thank you, Diane. I was going to ask that question because, you know, I'm just  
12 fascinated by the conversation we've been talking about affordable housing for a very,  
13 very long time. And I appreciate Councilmember Trachtenberg's attempt to figure out a  
14 way at this late moment in the conversation to add to the HIF fund. I personally think  
15 that there are many other ways throughout this whole past year of discussions about the  
16 annual Growth Policy and its impact and the implications for affordable housing, and it  
17 seems to me we should have taken the broader public policy goal direction on how we  
18 wanted to move this instead of trying to figure out at the end game how we're going to  
19 attach some numbers on. I really -- I don't really believe this is the right approach. It  
20 gains -- gets a -- net gains in terms of, you know, money into the HIF fund, but it doesn't  
21 really do anything for the way we are approaching affordable housing in this County. So  
22 we just had a conversation about moratoriums in the metro station policy areas where  
23 there would probably be some net gains, in my opinion, of affordable units within 900  
24 feet of a metro station. And that appears to not be the direction this Council is going. So  
25 I would just as soon wait until we hear back from the County Executive in terms of what  
26 our position in Annapolis is going to look like and its impacts on our budget coming up.  
27 So I appreciate Councilmember Trachtenberg's approach; I think it's a little late and it's  
28 not enough.

29  
30 President Praisner,  
31 Councilmember Andrews.

32  
33 Councilmember Andrews,

34 Thank you, Madam President. Well, I think the proposal from Councilmember  
35 Trachtenberg does have a lot of merit in two respects. One is that it would hold  
36 harmless those properties that are \$500,000 or less in terms of any increase in the  
37 recordation tax. The actual median sale price of homes in Montgomery County -- at  
38 least existing homes, and I think all homes averaged, is \$490,000. So basically, it takes  
39 the lower half and says, there would be no increase in recordation tax on that, and then  
40 using a portion, or in this proposal all, but I think that's something that could be  
41 discussed toward affordable housing, towards supplementing the housing initiative fund  
42 is a worthy proposal. I would suggest that it would make sense to wait on this given that  
43 we don't have two colleagues here at the moment. And I'm sure they would have  
44 suggestions as well. And about that time when our colleagues are back, we would also  
45 know what happened in the special session. So I think it does make sense since we  
46 don't have to take action on this today to wait and get that additional information from

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1 the Housing Community Affairs Department about their specific suggestions on how  
2 they might suggest it be used. But I like the fact that it is a progressive approach to  
3 structuring the recordation tax and would not increase the recordation tax on a lot of  
4 homes that are available to people looking for their first home or moving up as well. So I  
5 appreciate the suggestion, and I think that it's something we can build from.

6  
7 President Praisner,  
8 Councilmember Elrich.

9  
10 Councilmember Elrich,  
11 I support this recommendation. And I actually think this -- the effort to target it toward  
12 rental housing is critical because it's the component that we serve the least well in  
13 Montgomery County. It's the component that has the highest number of low-income  
14 people living in it. We were told yesterday at the OLO report that the MPDU program is  
15 not effective for people who are earning less than 60% of median income, pretty much  
16 65, and they have MPDU's that sit unsold. We have no program that affects the renters  
17 in this County who by and large in any number of categories don't meet the income  
18 requirements in order to buy MPD units. So I think it's critical to start reassigning some  
19 money or identifying some money that's available for rental housing assistance. And I'm  
20 happy to support this. And I have been banging away at different ways of trying to get  
21 us to do other things on affordable housing, as Mr. Nelson can attest to, and Mr. Leggett  
22 can attest to, and, you know, we haven't been able to get as far in some ways as I  
23 would like, but I think this is a good and necessary start. And I'm happy to support it.

24  
25 President Praisner,  
26 Councilmember Berliner asked me to comment for him before he left. And it sounds like  
27 from what I'm hearing from the majority of Councilmembers is an interest in waiting on  
28 this issue. Councilmember Berliner and I, as the two other members of the Management  
29 and Fiscal Policy Committee tried to with the level of the price of the house and effective  
30 date respond to some of the concerns and make it a little more progressive and also  
31 respond to the price of housing. I have no problem with associating some of this  
32 revenue and directing it towards the rental community because I do agree we have not  
33 focused very much on that piece except to try to protect individual buildings to the  
34 extent we thought they were moving towards condominium conversion or individual  
35 buildings per se, and trying to protect a share of those units, but definitely not the  
36 community as a broad sense when it comes to rental. I do have some concerns, though,  
37 and they relate this way. We can always -- having done two things on the Housing  
38 Initiative Fund, which is tie it to the property tax. That has increased the HIF fund  
39 dramatically in the last few years. And in the past year, this Council adopted a resolution  
40 that came out of the PHED Committee which meant that unlike the previous County  
41 Executive who used to use the balance in the fund to -- before calculating how much of  
42 the property tax revenue had to be distributed, that option is no longer available to this  
43 County Executive. It has got to be a clean percentage each year no matter what the  
44 Housing Initiative Fund may have in it as a balance. So that is also a significant  
45 increase to the Housing Initiative Fund. This Council has an opportunity every year,  
46 looking at the amount of money in the Housing Initiative Fund to direct and redirect

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1 where it wants to focus its priorities as to where the focus should be. That said, we can  
2 always use more funds in the Housing Initiative Fund, but there are also a variety of  
3 other ways to deal with this issue. Councilmember Berliner and I, as he indicated to me  
4 his view, and it turns out was similar to mine, are supportive of going forward with this,  
5 but we would like to see 50% of the money not 100% at this point given the fact that this  
6 is a Growth Policy discussion about infrastructure, and we're talking about the state  
7 issues, and our tremendous infrastructure needs and our task force on infrastructure  
8 financing recommendations, to use the revenue we believe that there is also an issue of  
9 providing infrastructure for folks whether they are rental or owners, and would like to  
10 see some of those funds continue to be directed -- new funds continue to be directed  
11 towards infrastructure needs one way or the other. Councilmember Floreen.

12  
13 Councilmember Floreen,

14 Well, just a couple things as I'm -- if this is going to go forward, I would include the  
15 language -- you remind me that we wouldn't want this to be used to supplant other  
16 obligation to contribute to the Housing Initiative Fund. I think that's become a given  
17 here, but I think it would be -- we would want that kind of language. But are you also  
18 proposing that it be a 50-50 split between rental assistance and infrastructure financing?  
19 Is that what you said?

20  
21 President Praisner,

22 That's what I was saying was what Councilmember Berliner said to me as he left that he  
23 would support 50% of the new money, not 100%.

24  
25 Councilmember Floreen,

26 Okay. We're going from the \$500,000 base?

27  
28 President Praisner,

29 Yes.

30  
31 Councilmember Floreen,

32 Okay.

33  
34 Dr. Orlin,

35 Can I ask which infrastructure?

36  
37 President Praisner,

38 Just infrastructure in general.

39  
40 Dr. Orlin,

41 So it could be county or schools?

42  
43 Councilmember Floreen,

44 No, County infrastructure.

45  
46 Dr. Orlin,

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1 That's what I'm asking.

2  
3 President Praisner,  
4 County infrastructure.

5  
6 Councilmember Floreen,  
7 County infrastructure.

8  
9 Dr. Orlin,  
10 County government infrastructure.

11  
12 Councilmember Floreen,  
13 Okay you have a third.

14  
15 Councilmember Trachtenberg,  
16 Well, it would seem to me that there seems to be consensus to move forward with it, but  
17 again in an amended version. And I think so that we have the opportunity to really have  
18 a very crystal clear conversation, if Dr. Orlin could get us some numbers by the end of  
19 the week so we have those next Tuesday. I also think that having some dialogue with  
20 the Executive side of the street and Mr. Nelson would also be useful so that we can  
21 have a particular understanding of implementation of anything that was going to get  
22 done in terms of rental assistance, because I'm still not clear how exactly that would  
23 work. But I would make a motion at this point to amend the recommendation with the  
24 proposal that I suggested, again, allocating only 50% of the revenue again, itemizing  
25 that, identifying that very clearly would go for the rental assistance part of it, 50%, and  
26 the other 50 towards county infrastructure. And I will make that motion at this time.

27  
28 Councilmember Elrich  
29 Second.

30  
31 President Praisner,  
32 All right it's been moved and seconded that the recommendations on the recordation tax  
33 be amended. Councilmember Ervin.

34  
35 Councilmember Ervin,  
36 I'm just a little curious. So I heard a couple Councilmembers mention that they would  
37 like to wait. So we're not waiting?

38  
39 President Praisner,  
40 We're going to take a straw vote. If folks want to make a motion next week to defer, they  
41 can. But it's just so staff has that in front of us. That's all. Okay. Any other lights? There  
42 aren't any. The motion in front of us is an amendment to the committee's  
43 recommendation keeping all of the components except on the new revenue distributing  
44 them as new money, not to be supplanted in the Housing Initiative Fund for rental  
45 assistance 50%, and 50% for county infrastructure. All in favor of the motion?  
46 Councilmember Andrews, Knapp, Praisner -- it's unanimous. Okay, then that is the

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1 amended recordation tax proposal in front of us, which will come for final action next  
2 week or if the Council wishes to defer, they can do so. Okay, let's move then,  
3 Councilmember Trachtenberg, to the next item.

4  
5 Councilmember Trachtenberg,  
6 Back to the school impact tax. So we're going -- you know, this is a trick I learned in my  
7 clinical training. It actually makes you feel better by the time you finish the exercise. So  
8 let's see if that works out. Start at the end and you work backwards. It's a very good  
9 exercise. I'm starting with the impact tax. The recommendation, again, the unanimous  
10 one of the committee was to raise the current school impact tax rates to reflect 90% of  
11 the marginal cost. And again, I think my colleagues will recall that we used that strategy  
12 in conversation last week about the transportation tax as well. Another recommendation  
13 that came out of the committee, unanimously, was to raise the surtax from \$1 to \$2 per  
14 square foot. And a recommendation of the committee that came out 2-1 was to lower  
15 the floor for the large house surtax from 4500 to 3500 square feet. And there were three  
16 other elements of the conversation as well. One was around -- and I'm skipping  
17 affordable housing because I know that's where all the lights are going to go on. In  
18 terms of the affordable housing, we again took the position that we would just continue  
19 to exempt only the affordable MPDU and lower income units. On cost inflation, we  
20 would base the biennial adjustment on a published construction cost index again  
21 specified by the Executive side of the street instead of the consumer price index which  
22 has been used and is utilized in the current law. And the final element was the effective  
23 date, which was to apply the new rates to each building permit for which an application  
24 is filed on after December 1st. So again, those are the recommendations that came  
25 from MFP on the school impact tax. There's a good table on page 4 which shows the  
26 current rate compared to the committee rate.

27  
28 President Praisner,  
29 Okay. Councilmember Elrich

30  
31 Councilmember Elrich,  
32 Is there a revised schedule of the impact tax that we had -- based on the 90%?

33  
34 Dr. Orlin,  
35 Yes, it's on Page 4.

36  
37 Council President Praisner  
38 It's on page 4.

39  
40 Councilmember Elrich,  
41 This is the revised -- okay.

42  
43 Councilmember Trachtenberg,  
44 This is the latest up-to-date.

45  
46 Councilmember Elrich,

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1 Never sure which is the latest. So what I would like to do is to, I guess, this the  
2 appropriate place to make the affordable housing amendment?

3  
4 Councilmember Trachtenberg,  
5 That relates to the school impact tax?

6  
7 Councilmember Elrich,  
8 Yeah. That if we -- the projects that contain housing that's -- that 30% of the housing is  
9 either MPDU or service people below the MPDU requirements that all of the market rate  
10 housing would receive a 50% cut in the impact fees. So if the project serves 30% MPDU  
11 or lower, the impact fee for the market units will be cut 50%?

12  
13 President Praisner,  
14 Fifty percent from the new rate.

15  
16 Councilmember Elrich  
17 From the new rate.

18  
19 Councilmember Trachtenberg,  
20 Uh-huh.

21  
22 Councilmember Floreen,  
23 Well I'll second that, but I'd offer -- .

24  
25 President Praisner,  
26 Okay. That's the motion in front of us. There are lots of lights. Council -- did you want to  
27 speak to that, Marc? Your light is still on?

28  
29 Councilmember Elrich,  
30 No.

31  
32 President Praisner,  
33 Okay, Council Vice President Knapp.

34  
35 Vice President Knapp,  
36 Thank you, Madam President. I'm just kind of building on the question we had asked  
37 before. I think the motion is a good motion. I'm just -- It gets back to the managing of  
38 expectations. And so when we talk about the marginal -- school impact tax reflecting the  
39 marginal cost, I'm still struggling with how we get to -- if these are paid at building permit  
40 stage, how we actually get those resources into the system in a way that truly gets us  
41 additional capacity. And I just -- one of the takeaways from this discussion is going to be  
42 that we have additional resources to really make sure that we have additional school  
43 capacity. And I just -- when we walked through it I -- we've walked through it twice now,  
44 and I'm still not at the point where I see how we actually get those resources out there  
45 in a way that they are linked to really get the additional capacity in our system.

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1 President Praisner,  
2 Well we have some experience with the school impact tax. Glenn.

3  
4 Vice President Knapp,  
5 But nominally.

6  
7 Dr. Orlin,  
8 Up till now -- .

9  
10 President Praisner,  
11 Yeah, well nominal revenue but we've gotten some.

12  
13 Dr. Orlin,  
14 Yeah, about \$8 million a year is what we've been getting. This would more than double  
15 the rate. But remember this is applied building permit, and the reply you're going to get  
16 to this what the effective date is for when these taxes go into effect. When we were  
17 saying essentially now, December 1st. And so any building permit that's applied for after  
18 December 1st -- or on or after December 1<sup>st</sup> would have to pay this higher tax. So  
19 remember there's a large pipeline of approved development, and they would all have to  
20 pay the tax.

21  
22 President Praisner,  
23 So anything that hasn't received a building permit.

24  
25 Dr. Orlin,  
26 That's right.

27  
28 President Praisner,  
29 If it starts as of December 1st or some other date, would have to start paying that?

30  
31 Vice President Knapp,  
32 All right. Great. I guess the issue with that so far is the rates have been so nominal quite  
33 honestly, it hasn't been factored into the equation. It has been such a low number that  
34 we knew what the CIP needed to be, so we went ahead with it and if we got a little bit  
35 extra, so much the better. It gave you some additional capacity. And so but the  
36 perception will be by doing this we're going to go out and say we're cover 90% of the  
37 marginal cost, which means presumably development is effectively paying for itself. So  
38 any new development that's approved is going to be able to cover the cost of any school  
39 construction increase in that area. And realistically I just don't see how we get there  
40 from here. I mean and I just -- .

41  
42 President Praisner,  
43 Well, it helps [inaudible].

44  
45 Vice President Knapp,



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1 It certainly won't hurt, but when you manage the expectation of people walk away  
2 saying great, you're covering 90% of the marginal rate, so there shouldn't be a problem.

3  
4 Dr. Orlin,  
5 We manage it as you say you've had this discussion several times; 85% of the growth  
6 and the enrollment is not due to new capac -- is not due to growth; it's due to turnover.  
7 And so this is going to provide 90% of 15% of what's needed to add capacity.

8  
9 Mr. Faden,  
10 Or a little more.

11  
12 Dr. Orlin,  
13 A little more in some areas.

14  
15 Mr. Faden,  
16 To offset some areas.

17  
18 President Praisner,  
19 Depending upon the rate.

20  
21 Vice President Knapp,  
22 The 12% of whatever we may need in that specific area?

23  
24 Mr. Faden  
25 Or 20 depending on if it's a high intensity development area.

26  
27 Vice President Knapp,  
28 Right.

29  
30 President Praisner,  
31 Okay.

32  
33 Dr. Hanson,  
34 Just one technical point: You had asked, Madam President, for us to recalculate the  
35 base rate in order to make sure that the base rate plus the \$2 surcharge per square foot  
36 on units over 3500 square feet would equal 90% of the marginal cost. And we have  
37 done that calculation which is a little bit different than what you see.

38  
39 President Praisner,  
40 Well you need to tell us because -- .

41  
42 Mr. Moritz,  
43 If you're looking on page 4 of your packet, the committee rate for a single family  
44 detached is 20,456. If you discount it for the surcharge, it would be \$17,816.

45  
46 Councilmember Trachtenberg,

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1 In other words, if you went to 150?

2

3 Dr. Orlin,  
4 This is 90%.

5

6 President Praisner,  
7 This 90%. That's the correct number.

8

9 Dr. Hanson,  
10 This is -- .

11

12 Councilmember Trachtenberg,  
13 Okay, I understand.

14

15 President Praisner,  
16 This is the correct number.

17

18 Councilmember Trachtenberg,  
19 It's not in the packet here though.

20

21 Mr. Faden,  
22 We haven't seen this number before.

23

24 Mr. Moritz,  
25 And then for townhouses, it was 15,234; so the change is not very great. And then for  
26 the others, there is no change because the expectation is there wouldn't be housing  
27 units in the multifamily range above 3500 square feet.

28

29 Dr. Orlin  
30 If we can we -- .

31

32 Mr. Moritz,  
33 Excuse me.

34

35 Dr. Orlin,  
36 Can we have a little discussion of this because there's a disagreement, I think.

37

38 President Praisner,  
39 Disagreement on the dollar amount?

40

41 Dr. Orlin,  
42 About the characterization of this; I think there is. We need to talk about this.

43

44 President Praisner,  
45 Well tell us. What do you mean? It's not talk among yourself, we need to know what you  
46 mean.

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1  
2 Dr. Orlin,

3 That's why I'm raising my hand. The Planning Board's original recommendation for  
4 100% was based on what is the cost of that unit -- what is the proportion cost of a single  
5 family detached unit or townhouse unit, whatever, generating the kids that would go to a  
6 school and what proportion of the cost that addition would be. And then they said okay  
7 that's how much it would cost if you did 100%. It does not take into account the fact that  
8 all affordable units are free; right, they are not paying a tax. And all of the units that are  
9 market rate are free in an enterprise zone are free. So if you look -- .

10  
11 Dr. Hanson,

12 Well look at the other amendment that's on the table.

13  
14 Dr. Orlin,

15 Plus the other amendment that's on the table which would add even some more to that.  
16 So if you're trying to look for what is a 90% cost coverage rate of all units -- all units; not  
17 just those that are paying the tax but of all units, then I would argue that frankly the  
18 rates you have now are probably maybe even less than 90%, but it's probably in the  
19 ballpark of 90% because yes it doesn't count the increment -- .

20  
21 President Praisner,

22 So these numbers are too low, you're saying?

23  
24 Dr. Orlin,

25 The numbers that the Planning Board just gave -- .

26  
27 Dr. Hanson,

28 [Inaudible] numbers too low. And the original numbers might be too low.

29  
30 Mr. Moritz,

31 We had stipulated that no, we did not take into account the exemptions. We only took  
32 into account the surcharge.

33  
34 Dr. Orlin,

35 So it depends how you define the question. If you're trying to get 90% marginal cost on  
36 those units for which you're charging a tax, then the Planning Board's numbers are  
37 correct. If you're talking about 90% cost of new housing development period, as a  
38 group, then the numbers that the committee is recommending are probably close to  
39 being right.

40  
41 Councilmember Trachtenberg,

42 And we went back and forth on this within the committee discussion. I remember that  
43 because we talked about breaking down the surtax.

44  
45 Dr. Orlin,

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1 Essentially, there's a cross-subsidy here between those units which are -- would be  
2 paying the tax and those that are not.

3  
4 President Praisner,

5 Since you cannot make assumptions, it's only a guesstimate of what specific units will  
6 be built, because you have to prove the units to date; why can't we agree to accept the  
7 numbers that are here originally from the committee as being close to the numbers as  
8 possible rather than trying to peel the onion all the way down to its core?

9  
10 Councilmember Floreen,

11 Let's agree this is not precise science.

12  
13 Councilmember Trachtenberg,

14 I think we should go with the committee recommendation. It keeps it as simple and it's  
15 close enough.

16  
17 President Praisner,

18 So the motion in front of us -- and I'll go back to lights, if there are any. But I want to be  
19 clear. The motion in front of us is to amend the committee's recommendation by  
20 charging the current -- the -- for units that -- for developments that are 30% or more  
21 affordable housing, meaning MPDU units, that the impact tax is half of the current rate?

22  
23 Councilmember Trachtenberg,

24 Yes, of the new rate. .

25  
26 President Praisner,

27 Half of the new rate -- 50% of the new rate for any development with 30% or more  
28 moderate priced affordable houses.

29  
30 Mr. Faden,

31 MPDU and below.

32  
33 President Praisner,

34 MPDU and below housing. Okay? Any further lights or discussion on this issue? All in  
35 favor of the motion. That is unanimous. Okay. Further motions? Councilmember  
36 Floreen.

37  
38 Councilmember Floreen,

39 Madam President, if we're going to do that, I'm delighted we're going to make some  
40 progress on this. I would like us to revisit the issue of the school facility payment.  
41 Wouldn't we take the same attack on that? Which is to reduce -- where 30% of the units  
42 are MPDU's or less, that the other units in the structure would be charged half the  
43 school facility payment? In other words, to make these parallel?

44  
45 President Praisner,

46 But isn't the school facility payment a different kind of issue?

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1  
2 Councilmember Floreen,  
3 It is. But it's related to affordability. It's the same issue all around. You're going to get  
4 less money.

5  
6 President Praisner,  
7 But it's also related to the conditions in that planning area or that school cluster area. It's  
8 not related to an impact tax across the board.

9  
10 Councilmember Floreen,  
11 Well, one can argue about whether you want to do it. I do think if we mean to advance  
12 affordable housing, we should be consistent in our prioritization of these units. So I  
13 would make that motion that we amend the school facility payment to parallel what we  
14 have just done on the schools' tax.

15  
16 President Praisner,  
17 Is there a second?

18  
19 Councilmember Ervin,  
20 Second.

21  
22 President Praisner,  
23 All right. It has been moved and seconded that we apply the same test to the school  
24 facilities payment. Councilmember Andrews.

25  
26 Councilmember Andrews,  
27 Thank you, Madam President. I don't support exempting the -- those units we just talked  
28 about [inaudible] from the school facilities payment because it really is different than the  
29 impact tax which is a countywide systemic fund. If you exempt from the school facilities  
30 payment, you're getting -- and hurting the ability to deal with overcrowding at the local  
31 school. And I think that is different. The school facilities payment really is if you want to  
32 go out of line, in effect, if you want to go ahead before the school is ready to handle  
33 those students; that's why this fee was created. And I think it serves a different purpose.  
34 And I think we would directly in that case undermine the ability to address school  
35 overcrowding if we exempted that development from the school facilities payment. I  
36 think the school impact tax is a different creature, and it's not related to overcrowding in  
37 a particular school where the development would be located. So I do make a distinction  
38 there, so I wouldn't support exempting on the school facilities payment.

39  
40 President Praisner,  
41 Councilmember Floreen.

42  
43 Councilmember Floreen,  
44 It's all related to achieving a revenue for the school system, no matter how you define it.  
45 But also to recognize that the numbers frankly in this category are likely to be relatively  
46 low. You're looking at a multi -- maybe a multifamily unit at the low end of the tax rate in

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1 any event. And the yield is less. But at least it would be a piece of the puzzle that these  
2 projects are struggling to satisfy.

3  
4 President Praisner,

5 Okay. I see no other lights. All in favor of the motion to apply the same kind of approach  
6 to the school adequacy payment indicate by raising your hand. Councilmembers Ervin,  
7 Floreen, and Knapp. Those opposed -- Councilmembers Elrich, Trachtenberg, Praisner,  
8 and Andrews. Motion fails. Anything else on the school impact tax?

9  
10 Councilmember Trachtenberg,

11 No, and we're going to go on to -- .

12  
13 President Praisner,

14 Okay, that's a separate tax. I'd like to take a straw vote on that so we know that we can  
15 go forward next week. All in favor of the school impact tax being on the agenda next  
16 week? That is unanimous. Okay, let's move to transportation impact tax.

17  
18 Councilmember Trachtenberg,

19 Okay, well we're now on page 1. And the committee recommendation on the  
20 Transportation Impact Tax is reflected on the table below. Basically, to raise the current  
21 rates in the general and Clarksburg districts by 70%, again which reflects a 90%  
22 recovery. And we also discussed setting the metro station policy areas at 75% of the  
23 general district rates, which is up from the current 50% rate. And that was the  
24 unanimous recommendation of the committee. We talked about the effective date, and  
25 again, we used the December 1st as the bar. In land use categories, we retained the  
26 bioscience category at a 0-dollar rate and other minor categories as well, including  
27 hospitals, and continuing the senior housing as a separate category. In the expired  
28 enterprise zones, if I'm not mistaken, we agreed to extend the current laws exemption to  
29 the expired zones only Silver Spring.

30  
31 Unidentified,  
32 [Inaudible].

33  
34 Councilmember Trachtenberg,

35 Right. Exactly.

36  
37 Mr. Faden,

38 So at this point, Silver Spring is the only expired zone, but we did draft that generically.  
39 So if another enterprise zone expires, as they will, this would be continued.

40  
41 Councilmember Trachtenberg,

42 Right. And so that was the one that it pertains to current times. I would also note that in  
43 terms of the to-do list that we talked about this morning, you know, this is a focus that  
44 has clearly been recommended that we actually have some work done on the issues  
45 around expired enterprise zones.

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1 Dr. Orlin,

2 And on the to-do list, one of the recommendations we had had in staff for this item is  
3 that the Executive Branch had the lead responsibility for it. Right now the item on the to-  
4 do list says it's a group of people working together, but for all these things, you really do  
5 need to have a lead.

6  
7 Mr. Faden,  
8 Impact tax issues.

9  
10 Dr. Orlin,  
11 The impact tax issues.

12  
13 President Praisner,  
14 Impact tax issue needs should be the Executive Branch.

15  
16 Mr. Faden,  
17 That's our recommendation.

18  
19 Dr. Orlin,  
20 That's our recommendation.

21  
22 Councilmember Trachtenberg,  
23 Okay. And on the required match, again, unanimous recommendation was to appeal the  
24 requirement that the County match transportation impact tax spending with additional  
25 non-impact tax spending. On the geographic restrictions on the use of funds, the  
26 committee again agreed to repeal certain restrictions and dollar limits on use of impact  
27 tax funds for non-road improvements and programs promoting transit and non-  
28 motorized travel. And in terms of trip and reduction programs, we decided to leave that  
29 issue for the Interagency Impact Tax study group, again, part of the to-do list that was  
30 discussed this morning. So those are the recommendations provided by the MFP  
31 committee on the Transportation Impact Tax.

32  
33 President Praisner,  
34 Okay. We have some lights. Councilmember Ervin.

35  
36 Councilmember Ervin,  
37 I want to go back to the conversation we had earlier today. I would like to amend the  
38 rate in the metro station policy areas at their current rate of 50%.

39  
40 Councilmember Floreen,  
41 Second.

42  
43 President Praisner,  
44 All right. Moved and seconded that the metro station policy area tax rates remain at  
45 50% of the countywide rates, which would mean they would go up, but they would not  
46 be at the 75%.

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Councilmember Ervin,  
Correct.

President Praisner,  
Okay. Conversation on that issue? Councilmembers lights; any of them on this issue?  
No.

Vice President Knapp,  
[Inaudible].

President Praisner,  
You do, okay. On that issue?

Vice President Knapp,  
Thank you.

President Praisner,  
Vice President Knapp.

Vice President Knapp,  
I just want to -- we got some interesting correspondence, and it gets back to the conversation earlier as it relates to trying to incent (sic) development into those metro station policy areas or transit policy areas, if you will. And I just don't know. Given some of the communities that you talked about this morning, Dr. Hanson, are there -- what kind of approach have they taken and what's yielded the most fruitful results as it relates to things like fee payments and taxes?

Dr. Hanson,  
There's almost no evidence, if any, that the tax rate has much of a locational (sic) effect on where people develop. I think symbolically it's interesting and useful probably to the extent that we use tax policy for -- to nudge people in locational directions that -- our view was keep this at 50%. We're trying to encourage people in metro station areas to use the alternative review procedure. In any event, if you stick with what it -- where it seems like you were this morning, that they would pay no more than 100% of the general rate in any event, you're -- I don't see a particular value in setting it at 75% and then saying if you do the right thing, it's still 100%. So it's -- .

Vice President Knapp,  
Okay, so that's a comment on this morning's action, not so much this. It's all right. Just checking.

Dr. Hanson,  
The comment I have here is I think our recommendation would be to leave it alone, leave it at 50% rather than jack it up to 75.



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1 Vice President Knapp,  
2 All right, that's helpful.

3  
4 Dr. Hanson,  
5 Though I can't tell you it will have a material difference on what people do.

6  
7 President Praisner,  
8 Since your rates were higher than what the committee is proposing, what's the  
9 difference between what the committee was proposing and what the Planning Board  
10 was proposing? Where's the Planning Board's rates? I don't remember.

11  
12 Mr. Faden,  
13 On circle 15 split by the three kinds of districts.

14  
15 President Praisner,  
16 Here it is, okay.

17  
18 Vice President Knapp,  
19 Okay, so the Planning Board was at 41. So we're going higher than that.

20  
21 Councilmember Trachtenberg,  
22 Right.

23  
24 Vice President Knapp,  
25 All right.

26  
27 President Praisner,  
28 A little bit.

29  
30 Mr. Faden,  
31 It depends on the kind of development. For residential, you're going higher. If you look  
32 down on office and retail, it's a different story.

33  
34 Dr. Orlin,  
35 Remember the Planning Board recommended differing increases in the Transportation  
36 Impact Tax because they calculated the impact differently than what had been done in  
37 the past, and so retail rates would have been tripled, office rates would have more than  
38 doubled; but on the residential side, their increases were smaller than what an overall  
39 increase would be. So that's why you see differences here.

40  
41 President Praisner,  
42 There are some lights. I want to make sure are these lights are related to this issue. No,  
43 okay. Yes, all right, Councilmember Elrich.

44  
45 Councilmember Elrich,

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1 A question for Mr. Hanson. Am I reading you correctly when you say that if you use the  
2 alternate review process, that they are doing extra mitigation over and above the trip  
3 reduction?

4  
5 Dr. Hanson,  
6 With the alternative review process, they are required to do 50% trip reduction.

7  
8 Councilmember Elrich,  
9 And that comes at a cost to them?

10  
11 Dr. Hanson,  
12 Yes.

13  
14 Councilmember Elrich,  
15 It's not calculated in?

16  
17 Dr. Hanson,  
18 No. That's extra cost.

19  
20 Councilmember Elrich,  
21 I would be comfortable leaving the fee flat at 75% and not going to the 100%; because if  
22 they are going to the alternate review process and putting significant money in trip  
23 reduction, then we're exacting from them exactly what we want and the way we want it.  
24 And so I'm happy to leave it just at 75 and not go to the 100.

25  
26 Vice President Knapp,  
27 So you're changing -- you're proposing modifying what we did this morning.

28  
29 Councilmember Elrich,  
30 Yeah.

31  
32 President Praisner,  
33 Well, can we dispose of this motion in front of us, and then if you would like to deal with  
34 that one separately. Okay. Any further questions? Councilmember Floreen, on this  
35 issue?

36  
37 Councilmember Floreen,  
38 No.

39  
40 President Praisner,  
41 The motion in front of us would set the tax rates for metro station policy areas at 50% of  
42 the new countywide rates. Okay? All in favor of the motion. Okay. All in favor of the  
43 motion? Councilmembers Ervin, Floreen, Trachtenberg, Praisner and Knapp. Those  
44 opposed? Councilmembers Andrews and Elrich. Okay. Further motions?  
45 Councilmember Floreen.  
46

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1 Councilmember Floreen,  
2 Well, I've got -- are you through, Ms. Trachtenberg on summarizing where you are?

3  
4 Councilmember Trachtenberg,  
5 No, I haven't finished yet. But you please go.

6  
7 Councilmember Floreen,  
8 I want to make sure where we are.

9  
10 President Praisner,  
11 I thought you had finished. Do you have more, Duchy?

12  
13 Councilmember Trachtenberg,  
14 Well actually no [inaudible]. I just wanted to let everyone know that we finished in less  
15 than 50 minutes. And we're now -- with the taxes, from my packet on page 1, so 50  
16 minutes. So there's some logic to working backwards.

17  
18 Councilmember Floreen,  
19 This is good.

20  
21 President Praisner,  
22 Now I've got other lights on other items. Councilmember Floreen.

23  
24 Councilmember Floreen,  
25 I have a number of things to propose, so if we could work through them. First one, I'm  
26 really concerned about Clarksburg and the retail situation out there. I don't know exactly  
27 what's in front of the Planning Board, but I do know that the whole shebang, much of the  
28 community unrest in Clarksburg had to do with the need to deliver retail services out  
29 there. We have gotten -- I think we got an email letter from them this morning about this;  
30 but I am very concerned that the rate that's proposed for Clarksburg retail, if I'm looking  
31 at this correctly, we're raising it by -- I don't know what the percentage is, 40%, 60%?  
32 Pardon me? 70%?

33  
34 Dr. Orlin,  
35 All the rates are increased now with the last motion to 70%.

36  
37 Councilmember Floreen,  
38 I do think that's a special case, and I would move that we keep that rate as is.

39  
40 President Praisner,  
41 All right. The motion in front of us would keep the Clarksburg rates for retail at the  
42 current level. Is there a second to that motion?

43  
44 Vice President Knapp,  
45 I will second.

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1 President Praisner,  
2 Made by Councilmember Floreen; and second by Vice President Knapp. The discussion  
3 now would be on that proposal to keep the retail rates in Clarksburg at the current level.  
4 Any discussion on that item? All in favor of the motion please indicate by raising your  
5 hand. Councilmembers Ervin, Floreen, and Knapp. Those opposed? Councilmembers  
6 Elrich, Trachtenberg, Praisner and Andrews. The motion fails.  
7

8 Councilmember Floreen,  
9 And then I had two other items. One is in here. It is the CSAAC issue. I think we should  
10 -- I'm in favor -- I am not opposed to raising the impact fees generally, but I do think they  
11 should favor -- at least recognize County priorities. And we have made some progress  
12 now in the transit station policy areas, and I think that's a good thing. I think that we  
13 need to add a category for social service providers. They are, in fact, and to a certain  
14 degree, groups like CSAAC are basically providing a governmental function. They are  
15 serving needy people oftentimes with county, state or federal dollars to provide the  
16 services that government isn't delivering. So I would propose that we create a category  
17 for social service organizations and tax them at the same rate that we are taxing  
18 bioscience and hospitals.  
19

20 President Praisner,  
21 All right. The motion would be to tax social service nonprofit organizations at the same  
22 rate as hospitals and bioscience.  
23

24 Unidentified,  
25 [Inaudible].  
26

27 President Praisner,  
28 And moved and seconded. I'm going to raise a question about this because  
29 Councilmembers may not know, but Mr. Faden and Mr. Orlin and I have been going  
30 back and forth on a variety of organizations with the Executive Branch where we believe  
31 they have both the authority to calculate differently the impact tax and that they are  
32 taking organizations and incorrectly classifying them. And my concern with the category  
33 is the number of organizations large though they may be within this County that would  
34 fall in that category that are not -- I'm afraid by creating a category to respond to CSAAC  
35 when there are other ways to deal with CSAAC, that we're creating a huge exception for  
36 nonprofits that are very large organizations. And I'd like to Mr. Faden to comment.  
37

38 Mr. Faden,  
39 Sure. Let me speak directly to the CSAAC situation itself because you've all seen the  
40 letter they sent in. And I've just discussed this with a couple members of their board,  
41 and we have traded phone calls with DPS -- the County Attorney assigned to DPS, but I  
42 haven't had a chance to talk to him yet. The CSAAC building is partly used for school  
43 purposes, and it also has an office for the organization. After discussions originally with  
44 DPS, DPS accepted that the wing used for school purposes would be taxed at the  
45 private school rate, which as you can see is quite low. They did not accept that the  
46 office was ancillary to the school, or at least at the review level this was at in DPS, and

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1 they instead charged the office wing of the building on a per square-foot basis at the  
2 office rate, which is of course much higher. CSAAC actually paid the lower rate and filed  
3 an appeal. DPS did not -- first of all, we think that when an office is ancillary to another  
4 building, and we had a discussion with -- not to another use in the same building, we  
5 had discussion with DPS a year or two ago on a church office where they first tried to  
6 charge that at the office rate, and then finally realized that the church office was  
7 ancillary to the church use and so modified their charge. We think the same principal  
8 should apply to the CSAAC building from all the facts we have. In addition, there is a  
9 specific provision in the implementing regulations for the impact tax which allows DPS  
10 to take unusual circumstances into account and basically set a rate that is fair and  
11 matches the overall situation. That, to our knowledge, that process was not even  
12 discussed in this situation.

13  
14 Councilmember Floreen,

15 Well, let me say this: I'm glad that you have identified that this is a pretty regular source  
16 of debate over at DPS as to how you've categorize these things. And that's the point. If  
17 there is a better way to capture nonprofit social service organizations in a way to narrow  
18 the applicability to serving county residents with county resources or something of that  
19 category, I'd be happy to define it. But we sure don't have this argument about  
20 hospitals, nor do we have this issue with biotech. I certainly don't think that they should  
21 be treated as a commercial office facilities, Industrial facilities, retail facilities, or -- and  
22 I'm not sure what "other" is. But you know, if the issue is definition of function, I'd ask  
23 you, if there is support for this, to come back to us with a better definition of function for  
24 next week. But to put these kinds of groups through extraordinary expenses, and then  
25 these are the people who come to us and ask us for money that end up basically paying  
26 their impact taxes. These are the groups who go to Annapolis and get bond bills, fight  
27 for them for years to pay our impact taxes. And I just don't see that as a good use of  
28 public dollars or private time when all they are trying to do is to deliver agreed-upon  
29 needed services to county residents. So keeping in mind that there can be better  
30 wordsmithing here, I do think that these are groups that are worthy of special attention  
31 and consideration, and should not have to go through what appears to be a pretty  
32 regular debate over whether which category which part of their building falls into.

33  
34 Mr. Faden,

35 I should say for point an information the two cases I've mentioned -- CSAAC and this  
36 church from a year or two ago, are the only cases that have come here other than the  
37 Leisure World clubhouse.

38  
39 President Praisner,  
40 Other than mine.

41  
42 Vice President Knapp,  
43 I have another one. Well, it's pending actually [inaudible].

44  
45 Councilmember Floreen,  
46 There's a laundry list of groups that we support in this regard.

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1  
2 President Praisner,

3 But the point is that our Council attorney believes, and we have had this debate, that the  
4 latitude for special categories and the ability to review that now rests with Permitting  
5 Services. But in the conversations that have gone on for the last three years, I believe,  
6 related to one. There has been a refusal by the Executive Branch -- previous  
7 administration -- to look at this issue. And I think it -- what I'm worried about is creating  
8 something so narrow or creating something so broad that there are significant  
9 unintended consequences while it can be done with the authority and the capacity that  
10 exists now.

11  
12 Diane Schwartz-Jones,  
13 I'll go back and look at that, Mrs. Praisner.

14  
15 President Praisner,  
16 There are other lights. So I jumped in, but there are other lights. Councilmember Elrich.

17  
18 Councilmember Elrich,  
19 I've recently gotten involved in this as well.

20  
21 Councilmember Floreen,  
22 Well this is what we all do.

23  
24 Councilmember Elrich,  
25 But I do believe this is a wordsmithing problem, and that I -- and it's not -- it's apparently  
26 not enough to say that they've got the authority since they haven't been able to find the  
27 authority or they have to be told they have the authority. So I would be happy to see a  
28 wordsmith recommendation or a resolution on our side that clarifies what that is.  
29 Because I agree, an ancillary office space in a school ought to be counted as the main  
30 function -- as a function of the school and not as an office building.

31  
32 Mr. Orlin,  
33 I believe the law already talks about how the tax rate is supposed to apply to the basic  
34 use -- I can't remember the exact language, but the basic use of the building and the  
35 ancillary uses that will be charged at the rate of the basic use. But this reminds me of  
36 something else that we discussed in the committee, which I'm sure is in the Bill or I'm  
37 not sure how you do this, but there was a direct -- definite wish that the Executive regs  
38 for impact tax be updated.

39  
40 President Praisner,  
41 Yeah, we don't have them.

42  
43 Dr. Orlin,  
44 They are 22 years old. About 20 years old.

45  
46 President Praisner,

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1 Well, the impact tax regs exist from a time when probably impact taxes were applied to  
2 only two areas of the County and were calculated based on transportation and roads in  
3 the queue and the cost for them, not the process in place right now.

4  
5 Mr. Orlin,  
6 That may need to go on the Bill.

7  
8 President Praisner,  
9 I have a couple -- Councilmember Knapp -- Vice President Knapp.

10  
11 Vice President Knapp,  
12 Thank you, Madam President. Another organization that is subject to the same issue,  
13 and I don't think they fall into any of these categories, is the Boys and Girls Club, which  
14 we have contributed to their gym, but I think they have a \$60,000 or \$70,000 impact tax  
15 fee they are supposed to -- because they fall into any category. They're not educational.  
16 They're not -- so anyway.

17  
18 Dr. Orlin,  
19 They're in other nonresidential. That's the other category.

20  
21 Vice President Knapp,  
22 But I think with all due respect to my colleagues, I think even if the language is there,  
23 and we can point to the law, we have real people whose lives are being impacted trying  
24 to make decisions right now. And so to the extent that we can get something from the  
25 Executive Branch within the course of the next week, then let's get it. If we can't get a  
26 clarification then I think we need to come up with some language, because while we can  
27 say we have been having this conversation for a year or two years or three years, they  
28 are all trying to meet needs right now, and they are all challenged to meet those needs.  
29 And in most respects, most people are not getting on Board of the Boys or Girls Club or  
30 CSAC because of all the extra time it gets them or the fame or glamour, and so to the  
31 extent that we can help resolve these issues that they're helping our community, I think  
32 we need to try and do it sooner than later.

33  
34 President Praisner,  
35 All right. So what I'm hearing -- and I don't know if the maker of the motion is agreeable;  
36 what I'm hearing is asking folks to go back and look at language and look at the issue  
37 rather than vote on this at this time.

38  
39 Council Vice President Knapp,  
40 Today [inaudible].

41  
42 Councilmember Floreen,  
43 Well if we can bring it back to us by next week. I mean I would like to have it [inaudible]  
44 final vote.

45  
46 President Praisner,

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1 My concern is that there are many nonprofit national organizations that are in this  
2 County that have budgets as big as or close to the County; and therefore, this should  
3 not be a Mack truck if you're going to craft something. You are if it's in the  
4 implementation rather than in the category wherever it is.

5  
6 Councilmember Floreen,  
7 And that's why I talked to service to local residents.

8  
9 President Praisner,  
10 So do those huge nonprofits.

11  
12 Vice President Knapp,  
13 Well we've got a week.

14  
15 President Praisner,  
16 Red Cross provides services to local governments. A national organization.

17  
18 Vice President Knapp,  
19 Let's figure out if there's a language we can get from the Executive Branch, or come up  
20 with a better way to find it, but we've to a week and a lot of smart people.

21  
22 Councilmember Floreen,  
23 Or else come up with a clear waiver process that doesn't require nine different  
24 Councilmembers' offices to negotiate a solution, which is what we do now. Our next  
25 one, Madam President, I wanted to -- well, while we're on this category thing, I would  
26 like to advance what we have done on affordable housing and apply that to the  
27 transportation tax. Employ the exemption of all units in a housing project where at least  
28 30 of the units are MPDU's or below would be obligated to pay 50% of the  
29 transportation impact tax. The policy is the same as what we discussed previously.

30  
31 Councilmember Ervin,  
32 Second.

33  
34 President Praisner,  
35 Okay, moved and seconded that for affordable housing projects of 30% or more units  
36 that are MPDU or lower income eligibility, that that development would pay 50% of the  
37 new impact tax rate.

38  
39 Dr. Orlin,  
40 Yeah, the market rate units would.

41  
42 President Praisner,  
43 Market rate units as well. The affordable units don't pay now, but the market rate would  
44 pay 50% of the new rate. Further discussion? Council Vice President Knapp, that issue?  
45 Other issue. Okay, all in favor of the motion. Councilmember Ervin, Floreen. Those



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1 opposed? Councilmembers Andrews, Praisner and Elrich. Abstaining, Councilmember -  
2 - Vice President Knapp.

3  
4 Councilmember Floreen,  
5 Okay, and then my last one is the county match requirement. I would like someone to  
6 explain to me why we would eliminate that.

7  
8 President Praisner,  
9 [Inaudible].

10  
11 Councilmember Floreen,  
12 The Chair has abandoned us, but perhaps -- you know, we are saying we are catching  
13 up in our infrastructure needs. And we just decided just this second said well we're not  
14 going to exempt affordable housing projects basically from this cost. Why do we relieve  
15 ourselves of the obligation of stepping up to the plate? When we have this conversation  
16 periodically. Most of you know, you look at the percentage of county dollars devoted to  
17 transportation, capital improvements for capacity, and we don't do very well. We've  
18 more or less kept up with our obligation under this.

19  
20 President Praisner,  
21 Actually we have met our obligations. That was part of the conversation.

22  
23 Councilmember Floreen,  
24 I seriously doubt that -- why we would not hold ourselves to the bar that we are  
25 expecting the rest of the community to bear. So maybe -- is there an explanation?

26  
27 President Praisner,  
28 The conversation -- discussion was a recommendation from staff, as I recall, because  
29 the Council has and the County has met and from a standpoint of continuing that --  
30 continuing to include language that has been the Council and the County's level of effort  
31 to date, the reason to include this language was not seen as being necessary since it  
32 hadn't been done. We had been able to meet the challenge and had been doing that.

33  
34 Councilmember Floreen,  
35 Well, I would move the alternative to the committee recommendation that we keep it in  
36 since it seems to not be a problem, let's retain it.

37  
38 President Praisner,  
39 Motion is made to keep the language of match requirements for the County in the  
40 impact tax language. Is there a second?

41  
42 Councilmember Ervin,  
43 Second.

44  
45 President Praisner,  
46 All right. Moved and seconded. Council Vice President Knapp, on this issue?

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1  
2 Vice President Knapp,  
3 Yes, I'm reserving the right to get to the other issue.

4  
5 President Praisner,  
6 Sure don't worry. You're on the list.

7  
8 Vice President Knapp,  
9 I am still a little confused as to why we wouldn't have the match, but what did the  
10 Planning Board recommend?

11  
12 Dr. Hanson,  
13 We didn't recommend any change.

14  
15 President Praisner,  
16 They didn't say anything. I don't think they said anything on this issue.

17  
18 Dr. Hanson,  
19 No, we didn't. We just assumed you would do it.

20  
21 Vice President Knapp,  
22 So why?

23  
24 Dr. Orlin,  
25 When we were collecting what we were collecting in the way of transportation impact  
26 tax, it was not a large stretch on the County to be able to find the additional funds to  
27 provide the match. And let me remind you how this works. For every dollar of impact tax  
28 -- transportation impact tax money spent, that's supposed to be matched in that year by  
29 \$12 million plus an addition dollar from non-impact tax funds for County capacity  
30 projects for transportation. So if we were to spend \$8 million of transportation impact  
31 taxes in a year, we would have to also spend \$20 million in non-county impact tax  
32 monies for transportation capacity.

33  
34 Vice President Knapp,  
35 Okay.

36  
37 Dr. Orlin,  
38 We've always, as Ms. Praisner said, referring back to the committee discussion, we did  
39 some research on this. We've actually met the requirement every year since this went  
40 into effect four years ago -- four or six years ago. Six years ago, it was 2001; however,  
41 the concern was if we're going to raise impact tax rates as much as we are, generating  
42 that much more revenue would the County match -- would the County be able to afford  
43 the County match out of the general fund? And the question is why put yourself in that  
44 situation? We don't have a match requirement for schools. We don't have a match  
45 requirement really for anything else. And so our recommendation was to eliminate that  
46 requirement.

1  
2 Vice President Knapp,

3 Well, I guess, and I hear Mrs. Praisner, but I also hear Ms. Floreen, and I guess my --  
4 the thing I struggle with is at least historically in schools we have -- we have to do health  
5 and safety and we have to do capacity, and so we have typically done both of those  
6 things because those are pretty significant requirements for us to get done. But as it  
7 relates to County infrastructure, we have not done it. I mean there are a number of  
8 projects we can all point to that aren't getting completed. And if we get impact dollars,  
9 the impact tax dollars from transportation aren't directed to a specific project  
10 necessarily; right?

11  
12 Dr. Orlin,

13 They are directed to projects which add capacity.  
14

15 Vice President Knapp,

16 So that's the only requirement. So a project that adds capacity, and so we're getting  
17 more money, so presumably, we would want to dedicate more money. Otherwise you  
18 end up with the same situation we did with dedicating the Clarksburg impact tax. The  
19 Clarksburg we just created [inaudible] it just supplanted those monies. It didn't actually  
20 put additional money there. And you're just going to do the same thing. So we can say  
21 well see we're going to put a lot more money -- we're going to say we're spending the  
22 same amount of money for capacity projects as we were spending before because we  
23 have more impact tax dollars which lessens the burden for us to actually make that  
24 investment and go someplace else. That doesn't seem to make any sense. Wouldn't we  
25 want to leverage our dollars as opposed to spend less?  
26

27 Dr. Orlin,

28 And it's a valid policy choice to go either way here. The concern that we had at staff was  
29 at some point the impact tax monies that would come in would be so large, could the  
30 County, when you're looking at everything you have to fund with GO Bonds [inaudible],  
31 can you fund the match? Or can you just do the best you can do?  
32

33 Vice President Knapp,

34 Let me put this out there, then. I hear what -- I guess I see both sides. We have a  
35 number of issues that we have we talked about this morning on the list of things we  
36 need to keep looking at, and it would seem to me that it's a valid point to say at some  
37 point you topple over the edge because you have too much of a requirement. But the  
38 other thing we've had so far is we haven't had any of our impact taxes actually meet  
39 what our expectations were. And so to the extent that we can put this in the list of things  
40 that we're going to track and see if it's starts to get close, then let's look at that. But it  
41 seems we ought to keep the match in place, but let's have a tracking requirement there  
42 so we can begin to see or do some projections, and then figure out if it looks like -- if our  
43 trends continue that we're going to have a problem as opposed to assume that we'll  
44 have a problem before we do. It just seems to make more sense. So I would modify the  
45 motion just to include a tracking piece because it seems that we ought to be continuing  
46 to increase the investment if all possible to leverage our dollars. But I'm sensitive to the

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1 fact that we're going to have to watch it because we don't want to topple over the other  
2 side.

3  
4 President Praisner,

5 Let me speak against the motion for three reasons. Number one, as I recall, we may not  
6 have gotten very much impact tax, but there have been years where the impact tax was  
7 paying back the Capital Budget where we forward-funded assuming impact tax money.  
8 So it didn't buy us anything new anyway. So why should we put an onus on ourselves  
9 for additional money to pay for the same infrastructure that we were assuming impact  
10 tax was going to pay for if the impact tax money didn't appear? It sounds to me like  
11 there's always the potential. Well the requirements that you're talking about continue to  
12 escalate above the base 12 million. It's not total dollars. It's 12 million that was assumed  
13 because that's what we were doing originally. But some of that 12 million was forward-  
14 funding assumptions where impact tax money was going to come in. Part of the  
15 problem is then we get that is an onus on ourselves because we were forward-funding  
16 impact taxes. That's number one of my problem. Number two of my problem is it's an  
17 absolute number, and suppose we can't get exactly there, but we're pretty darn close,  
18 given the projects, it means you can't use the impact tax money. You have to return it.  
19 That's a pretty hefty obligation to refund money when you've made contributions and  
20 effort, but you're not getting exactly to the dollar amount perhaps that you need to be.  
21 So I think the obligation of continuing to work towards putting in County money has  
22 been one that we have been about, but tying our hands in the process requiring a  
23 repayment back after the development has occurred.

24  
25 Dr. Orlin,  
26 But it's not.

27  
28 President Praisner,  
29 Yes, it is. If we collect impact taxes and we don't match it, we have to refund the money.

30  
31 Dr. Orlin,  
32 Not quite.

33  
34 Vice President Knapp,  
35 Close.

36  
37 Dr. Orlin,  
38 It's close.

39  
40 President Praisner,  
41 It's close.

42  
43 Dr. Orlin,  
44 It's close. Not quite.

45  
46 President Praisner,

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1 It's close enough.

2  
3 Dr. Orlin,

4 The way it works is that if you don't have the match, then you can't spend that money. It  
5 sits there, but if you don't spend the money that you collect it, within six years, then it  
6 gets refunded.

7  
8 Vice President Knapp,

9 But in six years -- but I mean -- and it's not like we're not going to have additional  
10 capacity projects because this whole debate has been about the hole that we're already  
11 in. So it's not like we don't have -- we have an endless amount of capacity projects to  
12 fund, so then it just requires us to make sure that we're making the commitment to do it.

13  
14 Mr. Faden,

15 Do you have the other -- question -- do you have the other revenue to match it with?  
16 That's going to go up. That's going to escalate also. Our general position is that we don't  
17 like earmarks. We recommend against earmarks in the law, and that's what this is.  
18 That's the conceptual basis for staff recommendation along with the specifics that Glenn  
19 mentioned.

20  
21 Vice President Knapp,

22 I just struggle. I mean, given the fact that we have an Infrastructure Task Force report  
23 that talks about trying to dedicate resources to it, this seems to be a logical way to do  
24 that that kind of everybody is pulling in the same direction; it just seems to me.

25  
26 President Praisner,

27 But the task force recommendations didn't just relate to transportation. And this would  
28 dedicate all the money to transportation, so your fire station and everything else would  
29 have to wait.

30  
31 Councilmember Floreen,

32 But this is what's currently the requirement. This isn't changing -- what's being proposed  
33 is that we back off from our current modest obligation, not that we add on. We have  
34 already talked about, and I'm glad we addressed the recordation tax. But you're the  
35 ones -- I mean, this is a catching up situation. We are trying -- we suppose -- we  
36 allegedly, we say, that we're catching up. It's not a question of digging the hole as Mr.  
37 Hanson would like to say. It's a question of creating a foundation. We're not at that  
38 stage, and if we don't keep reminding ourselves of this obligation, we will back off;  
39 especially as there are always competing demands and good ones for other use of  
40 dollars. That's why we have -- and I mean, folks have here agreed that we are going to  
41 do a recordation tax that commits -- it earmarks things. I believe in earmarks because  
42 that means you will get something done that you believe in and you've established a  
43 policy objective. You back off this, you say, well, we'll see. And it would be different if  
44 this wasn't already in the law. But it is in the law, and to take it out of the law is a greater  
45 statement of a backing off from what we're trying to do, which is to catch up. That's a  
46 public commitment as much as anything else.

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1  
2 President Praisner,  
3 Okay. I have a couple more lights. Councilmember Andrews.

4  
5 Councilmember Andrews,  
6 Not on this one.

7  
8 President Praisner,  
9 Okay. Councilmember Elrich, on this one?

10  
11 Councilmember Elrich,  
12 Yeah. I mean, the way I hear this is we could back off and still stay within the existing  
13 law. So to me this isn't a matter of backing off. In other words, we can spend less; we've  
14 been spending more than what has been required by law. So the current law doesn't  
15 guarantee that we back off or don't back off.

16  
17 Mr. Faden,  
18 But that's only happened because the revenue from the impact tax has been relatively  
19 low.

20  
21 Councilmember Floreen,  
22 Yeah, it's been easy.

23  
24 Mr. Faden,  
25 If it escalates quite a bit, then the pinch will happen.

26  
27 Councilmember Elrich,  
28 Right. But, you know, all we've addressed in all of these impact fees and everything is  
29 how to get one side of the equation to contribute more to the construction of  
30 infrastructure. Simply saying that we want to spend the same amount plus \$12 million  
31 isn't identification of a resource, it's only the identification of an obligation and we have  
32 identified resources on the builder end to contribute money to more of this, but that  
33 doesn't necessarily identify resources on our end to let us make that match yet. I would  
34 be happy and hope we do find other additional resources to do this. That was, you  
35 know, part of what we did, I think, with the recordation tax, was to say we want, you  
36 know, we just identified a source of some additional money. But I'm comfortable taking  
37 this out knowing I think everybody up here is going to be struggling to find as many  
38 projects as they can possibly fund. I don't see anybody saying we don't want to fund  
39 things. But I don't want to be obligated to -- the ICC, that's different.

40  
41 President Praisner,  
42 Okay. Anything else on this issue?

43  
44 Councilmember Elrich,  
45 Demon whispering in my ear.

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1 President Praisner,  
2 All right, we have a motion in front of us.

3  
4 Mr. Gonzalez,  
5 May I say a couple of words on this?

6  
7 President Praisner,  
8 A couple.

9  
10 Mr. Gonzalez,  
11 Number one, as far as capacity improvements that we have in the works, I just list them  
12 here; we have over \$300 million coming in the next six years; over \$300 million in  
13 obligations that we will have on projects that we have in facility planning.

14  
15 President Praisner,  
16 Obligations, not funding.

17  
18 Mr. Gonzalez,  
19 Well, okay.

20  
21 President Praisner,  
22 We don't have funding. We have obligations.

23  
24 Mr. Gonzalez,  
25 We have projects. It's not like we will not have enough projects to spend the money on.

26  
27 President Praisner,  
28 That's not the point.

29  
30 Mr. Gonzalez,  
31 Well that's point number one.

32  
33 President Praisner,  
34 The point is the source of funding.

35  
36 Mr. Gonzalez,  
37 Yes, I understand that. The second thing is the old issue that the County Executive  
38 raised in his letter to you earlier, is the issue of credits; and I'm glad we will be looking at  
39 impact taxes and we will deal with credits and since we will be in the lead, we will  
40 address that issue, because that's one of the problems. We have about \$90 million in  
41 outstanding credits. So that's why we don't collect enough money, because we get too  
42 many credits. And number there is the issue of the message -- the issue of the message  
43 that you're sending to the people. You're increasing their taxes, whatever you call them,  
44 impact taxes and all that, you have made a commitment to reduce congestion through  
45 transit, through capacity improvements. You have said a modest \$12 million compared  
46 to \$150 million for school construction is not like a lot of money.

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1  
2 President Praisner,  
3 That's not what we're saying, Edgar.

4  
5 Councilmember Floreen,  
6 So you support my motion.

7  
8 President Praisner,  
9 Edgar, that's no what we are saying. It's not a mere \$12 million. That's not at all what  
10 the motion is about. No, it isn't. That's not at all. Okay, the motion in front of us would be  
11 to restore the language in the Growth Policy relative to the County's obligation. All in  
12 favor of the motion? Councilmember Ervin, Floreen, and Knapp. Those opposed?  
13 Councilmember Elrich, Trachtenberg, Praisner and Andrews. The motion fails. Any  
14 more motions, Nancy?

15  
16 Councilmember Floreen,  
17 Yeah, just one more, just for fun. [[Inaudible]]. I tried to back to the beginning.

18  
19 President Praisner,  
20 Get to page one.

21  
22 Councilmember Floreen,  
23 This is one where Marc and I agree.

24  
25 President Praisner,  
26 I have other Councilmember [inaudible] so let's [inaudible].

27  
28 Councilmember Floreen,  
29 Let the record reflect, at least conceptually, I think he has some different views. But I --  
30 one the issues under the credits is in mobility and self-worth, is the fact that if you  
31 implement a program for reducing parking at your facility, you're going points for it. And  
32 it seems to me that is a single most effective tool in terms of reducing traffic. It's a great  
33 traffic mitigation program, and it's one that I understand is currently employed  
34 periodically, I guess; or at least part of the conversation -- .

35  
36 President Praisner,  
37 Motion, Nancy?

38  
39 Councilmember Floreen,  
40 With Park and Planning. And what I would propose is language to the effect that there  
41 be for every space -- in metro station policy areas; for every space below the number of  
42 required parking spaces the development receive a credit equal to the construction cost  
43 of each un-built space. It's an incredibly expensive obligation to meet code  
44 requirements. But how do we incentivize (sic) people?

45  
46 President Praisner,



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1 Well let's see, Nancy, I think you've spoken to it. You've made the motion. Let's see if  
2 there's a second first. It would provide an additional credit for every parking space not  
3 built that is required?

4  
5 Councilmember Floreen,  
6 Basically, I'll say it again, for every space below the number of required parking spaces  
7 -- this is --.

8  
9 President Praisner,  
10 [Inaudible].

11  
12 Councilmember Floreen,  
13 They would get a credit for construction cost of such space.

14  
15 Dr. Orlin,  
16 In metro station policy areas, you said?

17  
18 Councilmember Floreen,  
19 Yes, that's it.

20  
21 President Praisner,  
22 Is there a second? No second. I think that's an issue that we might want to put for  
23 further discussion. I'm not sure if folks are prepared on this issue. So why don't we add  
24 that to something that needs to be looked at. I think we talked about parking policy, and  
25 I would suggest the parking policy issues include impact tax credits and impact tax  
26 calculations.

27  
28 Mr. Gonzalez,  
29 And POD obligations.

30  
31 President Praisner,  
32 Okay. Councilmember Andrews.

33  
34 Councilmember Andrews,  
35 Thank you, Madam President. We're getting near the end. And before I forget to do this  
36 next week, I want to thank the MFP Committee and the PHED Committee for their long  
37 work -- the hard work they've put in on this. They really did a very thorough job. I used  
38 to serve on PHED Committee many years ago, actually two Councils ago, and I was  
39 on MFP until recently. About six years ago, or was it eight? I wanted to put an incentive  
40 in the Growth Policy for transit-oriented development at MARC stations. We have an  
41 incentive at metro stations. I think it is a good policy to have reduced impact taxes at  
42 metro stations -- at transit stations. And I think that it would be useful to provide a  
43 modest incentive at MARC stations as well that are outside of the agricultural reserve,  
44 which would namely be Germantown on South. And so what I want to propose is that  
45 we establish the transportation impact tax at -- for MARC stations outside thing AG  
46 reserve at 85% of the general district rate. That would provide a modest incentive to

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1 support a development at those stations. We want to also, I think, continue to  
2 encourage the growth of the MARC system, which the Governor has talked about some,  
3 and which some of my colleagues worked very hard to protect the investment of MARC  
4 system when the previous Governor proposed closing a couple of the MARC stations.  
5 So I would put that on the table. I think it would be good policy. We would need to direct  
6 the Planning Board, I think, to develop what the borders would be for those MARC  
7 station policy areas subject to Council approval. So I would make that motion.

8  
9 Unidentified,  
10 I second it.

11  
12 President Praisner,  
13 All right. Moved and seconded that the impact tax rate for MARC station areas. And that  
14 would have to be determined by the Planning Board, what I assume would be a subset  
15 of the policy area, a smaller area would be set at 85% of the impact tax rate for the area  
16 and for the use, obviously.

17  
18 Councilmember Andrews,  
19 Let me add one thing and that is that two of the MARC stations are in metro station  
20 policy areas already. So it would not affect those. But I would want to clarify that you  
21 cannot get both credits. You would get the higher -- presumably you take the higher  
22 credit, which is the metro station one.

23  
24 President Praisner,  
25 The higher rate you mean.

26  
27 Councilmember Andrews,  
28 You take the one with the greater credit.

29  
30 Dr. Orlin,  
31 Rockville and Silver Spring about 50%.

32  
33 President Praisner,  
34 Whichever gets you the least to pay.

35  
36 Councilmember Andrews,  
37 Right. I assume [inaudible].

38  
39 Mr. Gonzalez,  
40 Could it apply to Washington Grove?

41  
42 Dr. Orlin,  
43 Literally would apply to Campington, Garrett Park, Washington Grove, Gaithersburg,  
44 Metropolitan Grove and Germantown.

45  
46 Councilmember Andrews,

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1 Right, those six.

2  
3 President Praisner,  
4 Areas of those, not the whole area.

5  
6 Dr. Orlin,  
7 No, not the whole -- areas around the metro stations.

8  
9 President Praisner,  
10 Around the MARC stations.

11  
12 Dr. Orlin,  
13 Marc stations, correct.

14  
15 President Praisner,  
16 Any discussion on this item? Vice President Knapp, on this?

17  
18 Vice President Knapp,  
19 The only point I would add -- and I appreciate the motion. I think that even though the  
20 Governor has talked about expansion of marc, all the expansion they're talking about is  
21 going up on the other line, not ours. And so we may need to actually advocate in the  
22 course of all the other things in transportation we're advocating for is an expansion of  
23 the Brunswick Line, because they've conveniently neglected that one.

24  
25 President Praisner,  
26 Okay. The motion in front of us then would apply an 85% of rate for the impact tax in the  
27 areas -- narrow areas associated with Marc stations to be defined by Planning Board.  
28 All in favor of the motion? Councilmembers Elrich, Floreen, Trachtenberg, Praisner and  
29 Knapp and Andrews. All those present -- unanimous among those present. Vice  
30 President Knapp?

31  
32 Vice President Knapp,  
33 Thank you, Madam President. On page two of the Clarksburg impact tax district, I've  
34 obviously already stated my concern about the potential difficult economic impacts I  
35 think are develop -- or impact tax district will have there. Although at this point it's a  
36 hunch. There's no indication of anything. And I know that we've -- we're going to be  
37 reviewing it in two years anyway because we'll do the Growth Policy again. What I  
38 would like to ask is if we could in the course of the things we're going to continue to look  
39 at -- I don't know if six months or a year is the appropriate timeframe, but something that  
40 gets us looking at those numbers sooner than later, because -- I'd actually say six  
41 months. And if we find out that that's too soon, then fine, we'll wait until we get more  
42 data. But I think once we get to a point where development starts to move forward there  
43 that we're going to be able to figure out what the real impact will be. And so I just I think  
44 we need to be in a position to respond as we're seeing it as opposed to waiting too long.  
45 And So -- .

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1 Councilmember Trachtenberg,  
2 I would second that.

3  
4 Vice President Knapp,  
5 Thank you.

6  
7 President Praisner,  
8 Okay. So what we need is in the Growth Policy some language that would help us to  
9 track Clarksburg to the extent that any changes would have an effect on having a  
10 separate taxing district in the impact tax.

11  
12 Vice President Knapp,  
13 Right.

14  
15 President Praisner,  
16 That would help us to provide the information and give us a timetable for -- that is  
17 obviously much more abbreviated than the two years. And given the fact that impact  
18 taxes can be considered at any time, it really is more than a Growth Policy issue that  
19 would be on that cycle.

20  
21 Vice President Knapp,  
22 And to look, I think the potential -- even looking at surveying either some of the  
23 developers or some of the retail folks that perhaps didn't go there. But to get some  
24 sense of what's actually happened on the ground and to look at some of the adjoining  
25 areas as we see an increase in a place like Urbana or adjacent areas that may appear  
26 to trend in a way that wouldn't have otherwise, just so we can look at all the pieces.  
27 Thank you.

28  
29 President Praisner,  
30 Okay, we have.

31  
32 Dr. Hanson,  
33 That probably ought to be put on the to-do list.

34  
35 President Praisner,  
36 Right. That's what I meant. It would be on the to-do list. So you have to craft some  
37 language on the to-do list that relates to our being able to look at the effect of tax impact  
38 rates in the Clarksburg development. That completes, I believe, all the lights that are in  
39 front of us. The issue that we asked for folks to come back to us next week related to is  
40 the issue of whether we have to craft a separate category, how narrowly to craft it, or we  
41 have to look at regulation or administration pieces of the impact tax associated with the  
42 kinds of organizations that one defines narrowly would capture a CSAC-type develop, I  
43 think the one issue that we have outstanding. With that understanding but based on the  
44 actions that we've taken already -- yeah, I am going to make that comment. The actions  
45 that are taken, we have the transportation impact tax in front of us. All in favor of staff  
46 preparing the language and as a straw vote on the impact tax. Indicate by approval.

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1 Councilmembers Elrich, Trachtenberg, Praisner and Andrews. Opposed -- abstaining?  
2 Councilmembers Floreen and Knapp. One comment I wanted to make and I neglected  
3 the to do so when we were doing the Growth Policy. All of us are obviously watching to  
4 see what may or may not happen from a certain judge on a certain transportation  
5 project later this week. Mr. -- Dr. Orlin in his packet this morning, as we discussed it,  
6 made reference to the sequencing of the Inner-County Connector and its incorporation  
7 within the Growth Policy as a piece. Obviously should the road go forward, the  
8 calculations are based on the timing and sequence. Should the judge make any other  
9 action. That would have to affect the calculations that exist. Councilmember Floreen?

10  
11 Councilmember Floreen,  
12 I'm glad you mentioned it actually because I've been thinking about that. No doubt there  
13 will be legal skirmishes one way or the other. But I would say that if the ICC does not go  
14 forward for whatever reason, the cost -- what we will need to start working on is the  
15 alternative analysis in terms of the roadway widening and intersection improvements  
16 that I guess local government will have to pay for. I'm not sure about that. But that will  
17 have to be a work program item that we'll have to have a conversation about as well. So  
18 just wanted to mention that because that is something -- the costs may indeed in fact  
19 get shifted to us to solve the problem.

20  
21 President Praisner,  
22 We'll have to wait and see what the judge says. That depends. Mr. Orlin.

23  
24 Dr. Orlin,  
25 One of the problems -- we've talked about this a bit. We can have the Planning staff --  
26 and they may have already done it -- run a PAMR analysis without contract they  
27 included in it. But even if the judge comes back next week and makes a judgment  
28 saying that a new EIS has to be done, that doesn't mean it's not going to be appealed. I  
29 guess the question is what procedurally does the Council do vis-à-vis the Growth Policy  
30 having to do with contract day?

31  
32 President Praisner,  
33 Well let's wait until Thursday and find out, and then we can look at that issue. I realize  
34 that that's Thursday/Friday, and we are not here on Monday and we come back on  
35 Tuesday. But at least we'll have some sense. Obviously if the judge goes forward, then  
36 the information we have is up to date. If the judge delays the implementation, then it will  
37 have an effect on PAMR and you'll have to make those modifications. If -- .

38  
39 Councilmember Floreen,  
40 The point is that there's likely to be an appeal [inaudible].

41  
42 President Praisner,  
43 Well, right. But it would still be going forward. Okay. We are adjourned. Thank you all  
44 very much. Thank you for your time.